INITIATIVE PETITION

To the Attorney General of Ohio: Pursuant to Ohio Revised Code § 3519.01(A), the undersigned electors of the State of Ohio, numbering in excess of one thousand, hereby submit to you the full text of a proposed law and a summary of the same.

TITLE

An Act to Control and Regulate Adult Use Cannabis

SUMMARY

The Act would enact Chapter 3780 ("Chapter") of the Ohio Revised Code regarding adult use cannabis control to authorize and regulate the cultivation, processing, sale, purchase, possession, home grow, and use of adult use cannabis by adults at least twenty-one years of age ("adult use consumers"). Adult use cannabis, cannabis and marijuana are all defined under the Act to mean marijuana has defined in section 3719.01 of the Ohio Revised Code.

Among other things, the Act would:

1. Defines the following terms in the definition section of the Act: "adult use cannabis," "adult use cannabis operator," "adult use consumer," "adult use cultivator," "adult use dispensary," "adult use extract," "adult use processor," "adult use testing laboratory," "advertising," "applicant," "cannabis," "certificate of operation," "confidential information," "cultivate," "cultivation area," "cultivation facility," "dispensary," "disqualifying offense," "director," "extract," "level I adult use cultivator," "level II adult use cultivator," "level III adult use cultivator," "level I cultivator," "level II cultivator," "license," "license applicant," "license holder," "licensee," "manufacture," "marijuana," "medical provisional license," "minor cannabinoid," "mother plant," "paraphernalia," "person," "primary residence," "processor," "prohibited facility," "provisional license," "tetrahydrocannabinol," and "THC." Proposed Section 3780.01.

2. Permit controlled and regulated sales and use of adult use cannabis for adult use consumers for the following public purposes: reduce illegal marijuana sales and provide for safer and regulated cannabis product; limit transportation of out-of-state cannabis in the state; and provide funding and social equity opportunities in the state as outlined below. Proposed Section 3780.02.

3. Establish the Division of Cannabis Control ("Division") within the Department of Commerce, which shall have the authority to license, regulate, investigate, and penalize adult use cannabis operators, adult use testing laboratories, and individuals required to be licensed. The Act further requires the Division to adopt rules on twenty-two topics, and gives the Division the authority to adopt rules necessary for the administration, implementation, and enforcement of the Act. The rules adopted shall be harmonized with the rules adopted under the medical marijuana control program to avoid duplication and excess fees. If there is a conflict with this Act and related rules, and the medical marijuana control program and related rules, then this Act and related rules shall govern. Proposed Section 3780.03.

4. Authorize the forms of adult use cannabis that may be sold under the Act, and allows any person to petition the Division to request that an additional form or method of adult use cannabis be approved or denied within sixty days pursuant to rules that may be adopted by the Division. Proposed Section 3780.04.

5. Require the Division to establish and maintain an electronic database to monitor all adult use cannabis from its seed or clone source through its cultivation, processing, testing, and dispensing, which shall include all adult use cannabis operations. The Act prohibits the Division from making public any information reported to or collected by the division under this section that identifies or would tend to identify any adult use consumer. Proposed Section 3780.05.

6. Require the Ohio Department of Taxation to provide to the Division certain tax information regarding applicants for licensure which the Division shall maintain as confidential. Proposed Section 3780.06.

7. Provide facility requirements for adult use cannabis operators and adult use testing laboratories. Prohibits adult use cannabis operators and adult use testing laboratories from being within five hundred feet of a prohibited facility which is defined in the Act. The Act clarifies that this prohibition does not apply to: current facilities if there is a medical marijuana business operational at that location with a certificate of operation; or to research entities identified in the Act or by the Division. Allows medical marijuana cultivators with a certificate of operation to expand their current facilities to 100,000 square feet of cultivation area for a level I cultivator and 15,000 square feet of cultivation area for a level II cultivator once an adult use cultivator license is issued, and provides a process for further cultivation area expansion if approved by the Division. Allows level I or level II adult use cultivator to relocate all or a part of their cultivation area to more than one facility as long as the relocation complies with the Act and is approved by the Division. Authorizes a level III adult use cultivator to have up to 5,000 square feet in cultivation area and any additional expansion must be approved by the Division. Proposed Section 3780.07.

8. Require a criminal records check (as that term is defined in section 109.572 of the Revised Code), and prescribes the procedure for completing such criminal records check related to an adult use cannabis operator or an adult use testing laboratory for the following: an administrator or person responsible for the operation, owners, officers, board members, and employees or agents required to be licensed by the Division. Proposed Section 3780.08.

9. Require that an adult use cannabis operator and an adult use testing laboratory licensed under the Act to conduct business under their license at the same location where the adult use cannabis operator or adult use testing laboratory, or their owners, also have been issued a medical marijuana certificate of operation. This requirement does not apply if all or a portion of an adult use cannabis operator or adult use testing laboratory facility is relocated as authorized under the Act. All other applicants must conduct business at a facility consistent with the Act. Proposed Section 3780.09.

10. Prohibit operating as an adult use cannabis operator or adult use testing laboratory without a license. Requires within nine months of the effective date of the Act that that the following licenses be issued by the Division if the application is in compliance with the Act, and if an applicant, or their same owners, have a certificate of operation, or a medical provisional license that converts to a certificate of operation within 2 years, under the medical marijuana control program, as of the effective date of the Act:

- A dispensary shall be issued an adult use dispensary license for the current location of the dispensary;
- A level I cultivator shall be issued three adult use dispensary licenses at locations designated in a license application, and one level I adult use cultivator license for the current location of the level I cultivation facility;
- A level II cultivator shall be issued one adult use dispensary license at a location designated in the license application, and one level II adult use cultivator license for the current location of the level II cultivation facility;
- A dispensary shall be issued one adult use dispensary license at a different location as designated in the license application if the dispensary does not have any common ownership or control with any level I adult use cultivator, level II adult use cultivator, or adult use processor license applicant or licensee;
- A processor shall be issued under this chapter one adult use processor license for the current location of the processor; and
- A testing laboratory shall be issued under this chapter one adult use testing laboratory license for the current location of the testing laboratory.

The Act requires the Division to issue forty level III adult use cultivator licenses and fifty adult use dispensary licenses with a preference to applications who are participants under the cannabis social equity and jobs program. Authorizes the Division to issue additional adult use cannabis licenses twenty-four months after the first adult use operator license is issued after the Division considers elements outlined in the Act, and after a report and recommendations is sent to the Director of the Department of Commerce for consideration. The Act places a cap on the number of adult use cannabis operator licenses any person can hold at one time which may be set by

rule. The Division may issue additional adult use testing laboratory licenses at any time. Proposed Section 3780.10.

11. Allows authorized applicants to file an application for licensure under the Act and requires that applicants comply with Division rules and requirement related to the application. Requires initial applications to be available within six months of the effective date of the Act. Requires the Division to issue a license if an applicant meets specific requirements under the Act. Provide authority to the Division to set license expiration schedules and states that a license shall be renewed unless good cause is shown. Proposed Section 3780.11.

12. Authorize a level I or level II cultivator licensed under the Act to: cultivate adult use cannabis; distribute, transfer, and sell adult use cannabis to other adult use cannabis operators; and acquire seeds, clones, plants, and other genetic material. The adult use cultivators would not be permitted to cultivate any adult use cannabis for personal, family, or household use under the license. Proposed Section 3780.12.

13. Authorize a level III adult use cultivator licensed under the Act to: cultivate adult use cannabis; distribute, transfer, and sell adult use cannabis to other adult use cannabis operators; and acquire seeds, clones, plants, and other genetic material. A level III adult use cultivator would not be permitted to cultivate any adult use cannabis for personal, family, or household use under the license. Proposed Section 3780.13.

14. Authorize an adult use processor licensed under the Act to: obtain cannabis from adult use cannabis operators; process adult use cannabis obtained from adult use cannabis operators into a form authorized under the Act; and distribute, transfer, and sell processed adult use cannabis to adult use cannabis operators. Proposed Section 3780.14.

15. Authorize an adult use dispensary license issued under the Act to: obtain adult use cannabis from adult use processors, adult use cultivators, level III adult use cultivators, and other adult use dispensaries; distribute, transfer, or sell adult use cannabis to adult use cannabis operators; provide delivery of adult use cannabis and cannabis paraphernalia to patrons as established in rules adopted under the Act; and dispense or sell adult use cannabis subject to limitations and requirements set forth in the Act. These requirements include, only dispensing or selling adult use cannabis to adult use consumers who present a current, valid identification card demonstrating proof that the adult use consumer is twenty-one years of age or older, acceptable form of prepackaged and labeled cannabis received from an adult use cannabis operator, only dispensing or selling adult use cannabis in amounts that do not exceed the possession limits established by the Act, training for employees, and providing addiction services information. Proposed Section 3780.15.

16. Authorize an adult use testing laboratory licensed under to the Act to obtain adult use cannabis from an adult use cannabis operator for testing purposes only and to conduct cannabis testing and research and operations as required by Division rule. Proposed Section 3780.16.

17. Authorize the division to issue a license to an individual applicant, who is at least twenty-one years of age, after the Division has determined that the applicant is eligible for a license under rules adopted by the Division and after the applicant has paid any applicable fees. A license issued under this section is portable and may be used at any adult use cannabis operator or adult use testing laboratory as long as such licensee is registered with the Division for each location where the licensee works or is employed. Proposed Section 3780.17.

18. Establish the cannabis social equity and jobs program which outlines the purposes for the program. The Department of Development is required to: establish the program which includes certifying program applicants based on social and economic disadvantage; develop a process for evaluating and adjusting program goals; educate potential participants about the program; implement a compliance system for the program; provide financial and technical assistance to persons certified under the program; encourage employment practices for adult use cannabis operators to hire and educate specified groups; study and fund judicial and criminal justice reform; study and propose policy reform related to impacts of enforcement of marijuana laws and to track and prevent underage usage of marijuana; fund specified investment in impacted communities related to the program; and use funding for the program only for the purposes of the program. Provide program applicants protection from the Department of Development releasing certain application information as public records. Requires that any license preference under the Act and as a result of the program be based on substantiated evidence that the

preference is needed to address the goals of the program. Create an advisory board for the program to provide recommendations on the program to the Department of Development. Proposed Sections 3780.18 and 3780.19.

19. Require that adult use cannabis operators and adult use testing laboratories adopt operating procedures and comply with operation requirements required by Division rules adopted under the Act. Prohibits adult use operators from selling or dispensing adult use cannabis without payment unless otherwise authorized under the Act. Proposed Section 3780.20.

20. Authorize the Division to adopt rules on regulating advertising of license holders to prevent prohibited advertisements, and to set standards and Division audit authority related to the advertising. Proposed Section 3780.21.

21. Establish that (for the purpose of supporting social equity issues, providing funds to support jobs and economic development, providing funding for host communities who have adult use dispensaries in their jurisdiction to support these communities, funding education and treatment for individuals with cannabis and other addiction issues, and defraying the costs of regulation and administering the tax) there shall be an adult use tax on the sale of adult use cannabis by adult use dispensaries to adult use consumers in accordance with the Act in the amount of ten percent which is in addition to sales tax authorized under 5739 of the Revised Code. The tax commissioner is authorized to adopt rules to administer the tax. Proposed Section 3780.22.

22. Create (for the purpose of receiving and distributing, and accounting for, revenue received from the adult use sales tax) the following funds in the state treasury: (1) the adult use tax fund; (2) the cannabis social equity and jobs fund; (3) the host community cannabis fund; (4) the substance abuse and addiction fund; and (5) the division of cannabis control and tax commissioner fund. All monies collected from the tax levied under the Act are required to be deposited into the adult use tax fund which shall be quarterly distributed as follows: thirty-six per cent to the cannabis social equity and jobs fund; thirty-six per cent to the host community cannabis facilities fund; twenty-five per cent to the substance abuse and addiction fund; and three per cent to the division of cannabis control and tax commissioner fund. The director of the Office of Budget and Management shall transfer amounts of the funds as required in the Act. Proposed Section 3780.23.

23. Provides authority to the tax commissioner on the collection, administration, and enforcement of the adult use tax, and gives the tax commission authority to prescribe forms and rules to carry out the adult use tax and the funds created to receive the adult use tax. Proposed Section 3780.24.

24. Permit the legislative authority of a municipal corporation to adopt an ordinance, or a board of township trustees to adopt a resolution, by majority vote, to prohibit, or limit the number of adult use cannabis operators permitted under the Act within the municipal corporation or within the unincorporated territory of the township, respectively. However, the Act provides that a municipal corporation or township may not prohibit or limit: existing operational medical marijuana cultivators, processors, or dispensaries; or an adult use cultivator or an adult use processor, or an adult use dispensary who is co-located with adult use cultivator and an adult use processor, who have, or whose owner have, a medical marijuana certificate of operation at the same location as of the effective date of the Act. Medical marijuana dispensaries, or their owners, are authorized to operate an adult use dispensary in a municipal corporation or township once licensed by the Division. However, a municipal corporation or township may vote to prohibit the operation of an adult use dispensary within one-hundred and twenty days of the adult use dispensary license being issued. If a municipal corporation or township votes to prohibit an adult use dispensary, the adult use dispensary must stop operation within sixty days, unless the adult use dispensary files with the board of elections a valid petition on whether the adult use dispensary should remain open and whether the municipal corporation or township should receive funding related to the adult use dispensary. If the petition is valid, the issue is required to be placed on the next general election ballot as prescribed under the Act but no sooner than ninety days from when the petition is filed with the board of election. If the issue is passed, then the adult use dispensary may remain open. If the issue is not passed, then: the medical marijuana dispensary at that location may continue to operate, or may relocate and such relocation request shall be approved if it is filed within ninety days and complies with applicable law; and the adult use dispensary must close within ninety days unless the adult use dispensary applies to relocate within ninety days and then the adult use dispensary shall remain open until the Division approves the relocation. The Act prohibits a municipal corporation and township from: limiting specific research; levying a tax, fee, or charge on adult use operations,

their owner, or their property not generally charged on other businesses; prohibiting or limiting cannabis home use authorized under the Act; or prohibiting or restricting an activity authorized by the Act. Proposed Section 3780.25.

25. Authorize the Division to enforce, or cause to be enforced, all sections of the Act and the rules adopted thereunder, and authorize the Division to take action against any licensee or applicant for licensure, including, but not limited to, refusing to issue a license, suspending a license, inspecting the premises of a license holder without prior notice, or imposing on a provisional license holder or license holder a civil penalty. The Act establishes additional procedures and requirements the Division must follow in exercising its authority. Proposed Section 3780.26.

26. Authorize the Attorney General to bring a civil cause of action, if requested by the Division, to restrain a violation of the Act and require the applicable court to give any such action priority over all other civil cases before the court. Proposed Section 3780.27.

27. Authorize any citizen of the state of Ohio to commence an action to compel the Division to perform actions mandated under the Act if the Division fails to adopt rules necessary to initially implement the Act within nine months of the effective date of the Act or fails to begin accepting license applications within six months of the effective date of the Act. Establish that, if the Division fails to issue an adult use cannabis operator license, or send a notice of denial to an applicant, within three months after receiving a complete adult use cannabis operator application pursuant to the Act, the applicant may: commence an action to compel the Division to perform actions mandated under the Act; and unless the Division can demonstrate in writing that operating presents a danger of immediate and serious harm to others, the applicant may operate under a temporary license if the applicant has a medical marijuana certificate of operation at the location, and complies with the Act and any rules adopted by the Division under the Act. Proposed Section 3780.28.

28. Authorize adult use consumers, subject to enumerated limitations, to: (1) cultivate not more than six cannabis plants at the individual's primary residence, with a total limitation of not more than twelve cannabis plants per residence where two or more adult use consumers reside at one time; (2) process by manual or mechanical means adult use cannabis cultivated or grown in accordance with section 3780.29 of the Act; (3) transfer up to six cannabis plants to an adult use consumer as long as the transfer is without remuneration and not advertised or promoted to the public; and/or (4) store adult use cannabis that was purchased from an adult use dispensary licensed under the Act or produced in compliance with section 3780.29 of the Act. The Act would also permit a landlord to prohibit home grow activities otherwise authorized under the Act so long as such prohibition is included in the applicable lease agreement. The Act sets forth Division rule making authority to adopt a schedule of civil penalties for violations of this section and a reference to section 3780.99 of the Act for other listed violations in this section. Proposed Section 3780.29.

29. Require the Division to enter into an agreement with the Department of Mental Health and Addiction Services under which the Department shall provide a program for cannabis addiction services to be implemented on behalf of the Division which includes best practices for education and treatment for individuals with addiction issues related to cannabis or other controlled substances including opioids. The Department would also be required to establish, operate, and publicize an in-state, toll-free telephone number Ohio residents may call to obtain basic information about addiction services available to consumer, and options for an addicted consumer to obtain help. Require the Department of Mental Health and Addiction Services to administer the cannabis addition fund, to use the money in the fund to support addiction services or other services that relate to addiction and substance abuse, and research that relates to addiction and substance abuse, and to prepare an annual report describing the use of the fund for these purposes which shall be submitted to the Director of Commerce and several enumerated elected officials. The Act would require license holders to provide information to patrons regarding addiction issues and available services and resources and training to their employees on the same services and resources. Proposed Section 3780.30.

30. Define certain information collected by the Division as confidential and restrict the Division from disclosing such information unless certain criteria are satisfied. Proposed Section 3780.31.

31. Establish the proper venue for actions challenging the Act will be the Court of Common Pleas of Franklin County, Ohio with limited exceptions, and require that any action asserting that any portion of the Act or any rule adopted

thereunder violates any provision of the Ohio Constitution or federal law shall be brought within ninety days after the effective date of the enactment of the Act or within ninety days after the effective date of any rule adopted pursuant to the Act, as applicable. Proposed Section 3780.32.

32. Protect individuals who hold a license, as defined in section 4776.01 of the Revised Code, or other license, certification, or registration issued by any professional board in the state of Ohio, or pursuant to 2923.125 of the Revised Code (concealed handgun license), from disciplinary action solely for engaging in professional or occupational activities related to adult use cannabis in accordance with the Act, or for engaging in other enumerated activities in compliance with the Act. The Act would create additional protections for individuals who engage in conduct permitted under the Act. Establish as the public policy of the State of Ohio that contracts related to adult use cannabis operators and adult use cannabis testing laboratories are enforceable. Establish that when an adult use consumer who engages in activities related to adult use cannabis in compliance with this chapter, such activities alone do not constitute sufficient basis for conducting a field sobriety test on the individual or for suspending the individual's driver's license. The Act further requires that, to conduct any field sobriety test, a law enforcement officer must have an independent, factual basis giving reasonable suspicion that the individual is operating a vehicle under the influence of adult use cannabis or with a prohibited concentration of marijuana in the person's whole blood, blood serum, plasma, breath, or urine. Proposed Section 3780.33.

33. Define the terms "financial institution" and "financial services," and limit criminal liability for financial institutions that provide financial services to any adult use cannabis operator or testing laboratory licensed under the Act if the adult use cannabis operator or testing laboratory licensed operates in compliance with the Act and the applicable tax laws of the State of Ohio. Proposed Section 3780.34.

34. Protect an employer's authority to establish hiring and employment policies and practices. Specifically, among other protections, nothing in the Act requires an employer to permit or accommodate an employee's use, possession, or distribution of adult use cannabis otherwise in compliance with the Act. Proposed Section 3780.35.

35. Authorizes that adult use consumers may do the following: (1) use adult use cannabis; (2) possess, transfer without remuneration to another adult consumer, or transport adult use cannabis, subject to specified limitations; and (3) purchase adult use cannabis from an adult use dispensary per day an amount of adult use cannabis that does not exceed the possession limits established under the Act. Limit the amount of adult use cannabis that may be possessed by an adult use consumer to two and a half ounces of adult use cannabis in any form except adult use extract and fifteen grams of adult use cannabis in the form of adult use extract. Limit the amount of adult use cannabis that may be transferred by an adult use consumer without remuneration and not advertised or promoted to the public to two and one-half ounces of adult use cannabis in any form except adult use extract and fifteen grams of adult use cannabis in the form of adult use extract. Limit the amount of adult use cannabis that may be transported by an adult use consumer to two and one-half ounces of adult use cannabis in any form except adult use extract and fifteen grams of adult use cannabis in the form of adult use extract. Prohibit any individual from, among other activities: (1) operating a vehicle, motor vehicle, streetcar, trackless trolley, bike, watercraft, or aircraft while using adult use cannabis or while under the influence of adult use cannabis; (2) smoking, vaporizing, or using any other combustible adult use cannabis product while in a vehicle, motor vehicle, streetcar, trackless trolley, bike, watercraft, or aircraft; (3) transferring or selling adult use cannabis, with or without remuneration, to an individual under twenty-one years of age; or (4) allowing an individual under twenty-one years of age to purchase, possess, use, process, transport, or cultivate cannabis except where authorized by Chapter 3796 of the Revised Code. Proposed Section 3780.36.

36. Establish that if any provision of this Act or its application is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. Proposed Section 3780.90.

37. Establish penalties for violations of the Act by adult use consumers, individuals under twenty-one years of age, and others who violate the Act. Proposed Section 3780.99.

CERTIFICATION OF THE ATTORNEY GENERAL

The certification of the Attorney General, pursuant to Ohio Revised Code § 3519.01(A), will be inserted when it is provided. This initial petition must be submitted with at least one thousand (1,000) valid signatures of Ohio electors before the Attorney General will issue that certification.

COMMITTEE TO REPRESENT THE PETITIONERS

The following persons are designated as a committee to represent the petitioners in all matters relating to the petition or its circulation:

Thomas Haren	11747 Ivy Ridge Drive, North Royalton, Ohio 44133
Brandon Lynaugh	1299 Avondale Avenue, Columbus, Ohio 43212
Kevin Murphy	4155 Hadleigh Road, Cleveland, Ohio 44118

FULL TEXT OF LAW

Be it enacted by the people of the state of Ohio that the following chapter and sections are added to Title XXXVII of the Revised Code:

Chapter 3780: Adult Use Cannabis Control

Section 3780.01. Definitions.

(A) As used in this chapter:

(1) "Adult use cannabis" or "cannabis" or "marijuana" means marihuana as defined in section 3719.01 of the Revised Code.

(2) "Adult use cannabis operator" means a level I adult use cultivator, a level II adult use cultivator, a level III adult use cultivator, an adult use processor, and an adult use dispensary.

(3) "Adult use consumer" means and individual who is at least twenty-one years of age.

(4) "Adult use cultivator" means a level I adult use cultivator or a level II adult use cultivator.

(5) "Adult use dispensary" means a person licensed pursuant section 3780.15 of the Revised Code, this chapter and any rules promulgated thereunder to sell adult use cannabis as authorized.

(6) "Adult use extract" or "extract" means a substance obtained by separating or concentrating cannabinoids and other compounds from any part of the adult use cannabis plant by physical or chemical means, intended to be refined for use as an ingredient in an adult use cannabis product or as a standalone adult use cannabis product.

(7) "Adult use processor" means a person licensed pursuant section 3780.14 of the Revised Code, this chapter and any rules promulgated thereunder to manufacture adult use cannabis as authorized.

(8) "Adult use testing laboratory" means an independent laboratory located that has been issued a license by the division of cannabis control to have custody and use of adult use cannabis for scientific purposes and for purposes of instruction, research, or analysis.

(9) "Advertising" means any written or verbal statement, illustration, or depiction created to induce sales through the use of or a combination of letters, pictures, objects, lighting effects, illustrations, videos, sounds, or other similar means. "Advertisement" includes brochures, promotional and other marketing materials consistent with section 3780.21 of the Revised Code.

(10) "Applicant" means an individual or person who files an application for a license pursuant to this chapter."

(11) "Certificate of operation" means a certification of operation or license issued by either the department of commerce or the state board of pharmacy to a person pursuant to Chapter 3796 of the Revised Code and Chapter 3796 of the Administrative Code.

(12) "Confidential information" means information that is not a public record for purposes of section 149.43 of the Revised Code.

(13) "Cultivate" means to grow, harvest, package, and transports adult use cannabis pursuant to this chapter.

(14) "Cultivation area" means the boundaries of the enclosed areas in which adult use cannabis is cultivated during the vegetative stage and flowering stage of the cultivation process. For purposes of calculating the cultivation area square footage, enclosed areas used solely for the storage and maintenance of mother plants, clones, or seedlings shall not be included.

(15) "Cultivation facility" means a facility where an adult use cultivator or a level III adult use cultivator is authorized to operate.

(16) "Dispensary" means a person who has a certificate of operation to operate a dispensary under Chapter 3796 of the Revised Code and Chapter 3796 of the Administrative Code.

(17) "Disqualifying offense" means:

(a) A conviction or plea of guilty, including conspiracy to commit, attempt to commit, or aiding and abetting another in committing, the following:

(i) Any offense set forth in Chapters 2925, 3719, or 4729 of the Revised Code, the violation of which constitutes a felony or a misdemeanor of the first degree;

(ii) Any theft offense set forth under division (K) in section 2913.01 of the Revised Code, the violation of which constitutes a felony;

(iii) Any violation for which a penalty was imposed under section 3715.99 of the Revised Code;

(iv) A crime of moral turpitude as defined in section 4776.10 of the Revised Code; or

(v) A violation of any former law of this state, any existing or former law of another state, any existing or former law applicable in a military court or Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any of the offenses listed in paragraphs (a)(iv) to (a)(iv) of this definition.

(b) Any first degree misdemeanor offense listed in paragraphs (a)(i) to (a)(v) of this definition will not automatically disqualify an applicant from licensure if the applicant was convicted of or pleaded guilty to the offense more than five years before the date the application for licensure is filed.

(c) Notwithstanding paragraph (a) or (b) of this definition, no misdemeanor offense, including misdemeanors of the first degree, related to cannabis possession, cannabis trafficking, illegal cultivation of cannabis, illegal use or possession of drug paraphernalia or cannabis drug paraphernalia, or other cannabis related crimes shall be considered a disqualifying offense.

(18) "Director" means the director of the department of commerce.

(19) "Level I adult use cultivator" mean either a person who has a certificate of operation as a level I cultivator and who is licensed pursuant to section 3780.12 of the Revised Code, this chapter and any rules promulgated thereunder to cultivate adult use cannabis as authorized, or a person who is licensed as a level I adult use cultivator pursuant to section 3780.12 of the Revised Code, this chapter and any rules promulgated thereunder to cultivate adult use cannabis as authorized, and either person may operate up to one hundred thousand square footage of space designated as the cultivation area in the application which may be increased if a request for expansion is approved by the division of cannabis control.

(20) "Level II adult use cultivator" mean either a person who has a certificate of operation as a level II cultivator and who is licensed pursuant to section 3780.12 of the Revised Code, this chapter and any rules promulgated thereunder to cultivate adult use cannabis as authorized, or a person who is licensed as a level II adult use cultivator pursuant to section 3780.12 of the Revised Code, this chapter and any rules promulgated thereunder to cultivate adult use cannabis as authorized, and either person may operate up to fifteen thousand square footage of space designated as the cultivation area in the application which may be increased if a request for expansion is approved by the division of cannabis control.

(21) "Level III adult use cultivator" means a person licensed pursuant section 3780.13 of the Revised Code, this chapter and any rules promulgated thereunder to cultivate adult use cannabis as authorized.

(22) "Level I cultivator" means a person who has a certificate of operation to operate as a level I cultivator under Chapter 3796 of the Revised Code and Chapter 3796 of the Administrative Code.

(23) "Level II cultivator" means a person who has a certificate of operation to operate as a level II cultivator under Chapter 3796 of the Revised Code and Chapter 3796 of the Administrative Code.

(24) "License" means a license by the division of cannabis control to a license applicant pursuant to chapter 3780 of the Revised Code and the rules adopted thereunder.

(25) "License applicant" means an individual or person who applies for a license under this chapter.

(26) "License holder" or "Licensee" means an adult use cannabis operator, adult use testing laboratory or an individual who is licensed under the provisions of chapter 3780 of the Revised Code.

(27) "Manufacture" means the process of converting harvested plant material into adult use extract by physical or chemical means for use as an ingredient in an adult use cannabis product.

(28) "Medical provisional license" means a provisional license issued by either the department of commerce or the state board of pharmacy to a person pursuant to Chapter 3796 of the Revised Code and Chapter 3796 of the Administrative Code.

(29) "Minor cannabinoid" means any cannabinoid other than CBD, CBDa, Delta-9 THC or Delta 9 THCa, including any isomer, analogue, or derivative thereof, and any other cannabinoid that naturally occurs in cannabis, regardless of whether that cannabinoid may be naturally or synthetically derived, which may be used as an ingredient in adult use products.

(30) "Mother plant" means an adult use cannabis plant that is cultivated or maintained for the purpose of generating clones, and that will not be used to produce plant material for sale to an adult use processor or an adult use dispensary unless the plant is transferred into the cultivation area of the facility.

(31) "Paraphernalia" means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis into the human body.

(32) "Person" includes, but is not limited to, an individual or a combination of individuals; a sole proprietorship, a firm, a company, a joint venture, a partnership of any type, a joint-stock company, a corporation of any type, a corporate subsidiary of any type, a limited liability company, a business trust, or any other business entity or organization; an assignee; a receiver; a trustee in bankruptcy; an unincorporated association, club, society, or other unincorporated entity or organization; entities that are disregarded for federal income tax purposes; and any other nongovernmental, artificial, legal entity that is capable of engaging in business.

(33) "Primary residence" means the residence of an individual in which the individual's habitation is fixed and to which, whenever the person is absent, the person has the intention of returning.

(34) "Processor" means a person who has been issued a processing certificate of operation pursuant to Chapter 3796 of the Revised Code and Chapter 3796 of the Administrative Code.

(35) "Prohibited facility" means any church, public library, public playground, public park, or school, as defined in section 3796.30 of the Revised Code.

(36) "Provisional license" means a temporary license issued to an applicant for an individual license that establishes the conditions that must be met by the licensee before the individual is issued a license in accordance with the requirements and conditions set forth in chapter 3780 of the Revised Code and the rules adopted thereunder.

(37) "Tetrahydrocannabinol" or "THC" means the sum of the amount of delta-9 tetrahydrocannabinol (THC) and 87.7 per cent of the amount of delta-9-tetrahydrocannabinolic acid (THCA) present in the product or plant material. THC does not include minor cannabinoids.

Section 3780.02 Authorization and purpose.

(A) Controlled and regulated sales and use of adult use cannabis shall be permitted under this chapter for the following public purposes:

(1) Reducing illegal marijuana sales and providing for a safer and regulated cannabis product;

(2) Limiting the transportation of out-of-state cannabis into the state;

(3) Providing key funding to support social equity, job creation, host communities that have adult use dispensaries, cannabis research, and proper oversight and regulation of the adult cannabis industry; and

(4) Improving social equity issues to address the state's compelling interest to redress past and present effects of discrimination and economic disadvantage for individuals in the state.

(B) Adult use cannabis shall only be sold to, or used by, an adult use consumer pursuant to this chapter unless otherwise authorized pursuant to the Revised Code.

(C) Nothing in this chapter shall limit any sale, use, possession, or any other activity authorized by Chapter 3796 of the Revised Code.

Section 3780.03. Establishment and authority of division of cannabis control; adoption of rules.

(A) There is hereby established a division of cannabis control within the department of commerce.

(B) To ensure the proper oversight and control of the adult use cannabis industry, the division of cannabis control shall have the authority to license, regulate, investigate, and penalize adult use cannabis operators, adult use testing laboratories and individuals required to be licensed under this chapter.

(C) The division of cannabis control shall adopt, and as advisable and necessary shall amend or repeal, rules on the following:

(1) Prevention of practices detrimental to the public interest consistent with this chapter, and also ways to educate the public about this chapter;

(2) Establishing application, licensure and renewal standards and procedures for license applicants or license holders related to adult use cannabis operators, adult use testing laboratories, and individuals required to be licensed, including any additional background check requirements, the disqualifying offenses under section 3780.01 of the Revised Code that prohibit licensure, and any exemption criteria from licensing requirements for institutional or private investors who do not have significant control or influence over a license applicant or license holder, and whose ownership in a license is for investment purposes only;

(3) Establishing reasonable application, licensure and renewal fees amounts to ensure license applicants and license holders under this chapter pay for the actual costs for administration and licensure for the division of cannabis control;

(4) Establishing standards for provisional licenses for an individual who is required to be licensed and who has exigent circumstances. Such standards for provisional licenses must include submission of a complete application and compliance with a required background check. A provisional license shall be valid not longer than three months. A provisional license may be renewed, at the division of cannabis control's discretion, for an additional three months. In establishing standards with regard to instant background checks the division of cannabis control may use all available resources;

(5) Specifying the process and reasons for which a license holder may be fined, suspended either with or without a prior hearing, revoked, or not renewed or issued;

(6) The process and requirements for division of cannabis control approval of any requested change in ownership or transfer of control of an adult use cannabis operator or adult use testing laboratory;

(7) Establishing process and standards for expanding the size of the cultivation area for a cultivation facility;

(8) Establishing standards and procedures for the testing of adult use cannabis by an adult use testing laboratory licensed under this chapter. When establishing standards and procedures for the testing of cannabis, the division of cannabis control shall do all of the following:

(a) Specify when testing must be conducted;

(b) Determine the minimum amount of adult use cannabis that must be tested;

(c) Specify the manner in which testing is to be conducted in an effort to ensure uniformity of cannabis products processed for and dispensed; and

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

(9) The minimum amount of insurance or surety bond that must be maintained by an adult use cannabis operator and adult use testing laboratory;

(10) Requiring the division of cannabis control to adopt reasonable standards for any adult use cannabis samples, and advertising as prescribed in section 3780.21 of the Revised Code;

(11) Requiring that the records, including financial statements, of an adult use cannabis operator or adult use testing laboratory be maintained in the manner up to two years as prescribed by the division of cannabis control and which shall be made available for inspection upon demand by the division of cannabis control, but shall be subject to section 3780.31 of the Revised Code;

(12) Prescribing technical standards and requirements consistent with industry standards that must be met for security and surveillance equipment necessary for the provision of security and surveillance of adult use cannabis operators and adult use testing laboratories;

(13) Prescribing requirements for a license holder's provision of security services for an adult use cannabis operator and adult use testing laboratories which shall include the license holder's option to use armed or unarmed services including through agents of the license holder;

(14) Prescribing standards according to which license holders shall keep accounts and standards according to which adult use cannabis operators and adult use testing laboratories accounts shall be audited, and establish guidance for assisting the department of taxation in levying and collecting the adult use tax levied under section 3780.22 of the Revised Code;

(15) Determining penalties for violation of division of cannabis control rules or this chapter, and a process for imposing such penalties;

(16) Training requirements for employees and agents of adult use cannabis operators and adult use laboratories;

(17) Prescribing standards and procedures to allow for adult use cannabis delivery to adult use consumers, and online and mobile ordering procedures, which may only be conducted by an adult use dispensary or their agent;

(18) Prescribing cannabis inventory requirements to be maintained in an electronic database consistent with section 3780.05 of the Revised Code;

(19) Prescribing standards and procedures for product packaging and labeling of adult use cannabis products;

(20) Prescribing standards and procedures in coordination with the department of development to administer and enforce the cannabis social equity and jobs program as prescribed under 3780.19 of the Revised Code;

(21) Establishing a tetrahydrocannabinol content limit for adult use cannabis, which for plant material the content limit shall be no less than thirty-five per cent and for extracts the content limit shall be no less than ninety per cent, but that such content limits may be increased or eliminated by the division of cannabis control; and

(22) Prescribing duty to update requirements for license holders.

(D) All rules adopted under this section and chapter shall be adopted in accordance with Chapter 119 of the Revised Code.

(E) In addition to the rules described in division (C) of this section, the division of cannabis control may adopt any other rules it considers necessary for the administration, implementation, and enforcement of this chapter consistent with this chapter.

(F) When adopting rules under this section, the division of cannabis control shall consider standards and procedures that have been found to be best practices relative to the use and regulation of adult use cannabis and shall harmonize any rules with the rules adopted pursuant to sections 3796.03 and 3796.04 of the Revised Code to minimize duplication of operational requirements and fees as much as possible. If there is a conflict with Chapter 3796 and related rules, and chapter 3780 of the Revised Code and related rules, then chapter 3780 and related rules shall govern.

Section 3780.04. Allowable forms of adult use cannabis.

(A) Only adult use cannabis may be sold under this chapter in the following forms: plant material and seeds, live plants, clones, extracts, drops, lozenges, oils, tinctures, edibles, patches, smoking or combustible product, vaporization of product, beverages, pills, capsules, suppositories, oral pouches, oral strips, oral and topical sprays, salves, lotions or similar cosmetic products, and inhalers.

(B) Any person may submit a petition to the division of cannabis control requesting that an additional form or method of adult use cannabis be approved. A petition shall be submitted to the division of cannabis control in a manner prescribed by the division of cannabis control.

(C) On receipt of a petition, the division of cannabis control shall determine whether or not to approve the form or method of adult use cannabis described in the petition within sixty days of petition receipt.

(D) The division of cannabis control may adopt rules as necessary to implement this section.

Section 3780.05. Electronic database.

The division of cannabis control shall establish and maintain an electronic database to monitor all adult use cannabis from its seed or clone source through its cultivation, processing, testing, and dispensing for all adult use cannabis operator operations. The division of cannabis control may contract with a separate entity or state agency to establish and maintain all or any part of the electronic database on behalf of the division of cannabis control.

The electronic database shall allow for information regarding adult use cannabis to be updated instantaneously. Any license holder licensed under this chapter shall submit to the division of cannabis control any information the division of cannabis control determines is necessary for maintaining the electronic database.

The division of cannabis control, and any entity under contract with the division of cannabis control, shall not make public any information reported to or collected by the division of cannabis control under this section that identifies or would tend to identify any adult use consumer.

Section 3780.06. Information provided by the department of taxation.

(A)(1) Notwithstanding section 149.43 of the Revised Code or any other public records law to the contrary or any law relating to the confidentiality of tax return information, upon the request of the division of cannabis control, the department of taxation shall provide to the division of cannabis control all of the following information:

(a) Whether an applicant for license under this chapter follows the applicable tax laws of this state;

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

(2) The division of cannabis control shall request the information only as it pertains to an application for license that the division of cannabis control is reviewing.

(3) The department of taxation may charge the division of cannabis control a reasonable fee to cover the administrative cost of providing the information.

(B) Information received under this section is confidential. Except as otherwise permitted by other state law or federal law, the division of cannabis control shall not make the information available to any person other than the applicant for licensure to whom the information applies.

Section 3780.07. Facilities.

(A) Except as provided in divisions (B), (C), and (D) of this section, no adult use cannabis operator or adult use testing laboratory shall be located within five hundred feet of the end boundaries of a parcel of real estate having situated on it a prohibited facility.

If a relocation of an adult use cannabis operator or adult use testing laboratory licensed under this chapter results in the adult use cannabis operator or adult use testing laboratory being located within five hundred feet of the boundaries of a prohibited facility, the division of cannabis control shall deny the relocation and the adult use cannabis operator or adult use testing laboratory may apply with the division of cannabis control to request a relocation to a different location.

(B) Division (A) does not apply to:

(1) Current facilities and properties of adult use cannabis operators if the license holder or applicant, or the owners of the license holder or applicant, also have a certificate of operation and is doing business at that same location; or

(2) Research related to adult use cannabis conducted at a state university, academic medical center, or private or public research and development organization as part of a research protocol approved by an institutional review board or equivalent entity, or any other entity as approved by the division of cannabis control.

(C) Upon a level I cultivator or level II cultivator with a certificate of operation, or the same owners of the level I or level II cultivator, receiving a license from the division of cannabis

control as a level I adult use cultivator or level II adult use cultivator, the license holder may expand its cultivation area and facility as authorized in this chapter notwithstanding any limitation resulting from Chapter 3796 of the Revised Code or Chapter 3796 of the Administrative Code.

(D) Upon the division of cannabis control's receipt of a request from an adult use cultivator or level III adult use cultivator for expansion beyond what is authorized in this chapter, the division of cannabis control shall have ninety days to review and approve or deny a request for expansion consistent with division of cannabis control rule.

(E) After the review and approval from the division of cannabis control, an adult use cultivator may relocate all or a portion of the authorized cultivation area to more than one cultivation facility as long as any relocation complies with this chapter, the relocated facility is operated under the same license, and so long as the aggregate square footage for all related cultivation area and facilities does not exceed the square footage limitations under the license as authorized under this chapter. A level I adult use cultivator or level II adult use cultivator who also has, or whose same owner also has, a certification of operation, may only relocate cultivation area that is above the original approved cultivation area under 3796 of the Revised Code and 3796 of the Administrative Code.

(F) A level III adult use cultivator's cultivation area shall not exceed five thousand square feet unless authorized by the division of cannabis control under this chapter.

(G) The division of cannabis control may adopt rules as necessary to implement this section.

Section 3780.08. Criminal records checks.

(A) As used in this section, criminal records check has the same meaning as in section 109.572 of the Revised Code.

(B)(1) As part of the application process for a license issued under this chapter, the division of cannabis control shall require each of the following to complete a criminal records check:

(a) An administrator or other person responsible for the daily operation of an adult use cannabis operator or an adult use testing facility seeking a license;

(b) An owner or prospective owner, officer or prospective officer, or board member or prospective board member of an entity seeking the license as an adult use cannabis operator or an adult use testing facility as determined by the division of cannabis control; and

(c) An employee or agent of an adult use cannabis operator or an adult use testing facility required to be licensed under this chapter.

(2) If a person subject to the criminal records check requirement does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent of the bureau of criminal identification and investigation has requested

information about the person from the federal bureau of investigation in a criminal records check, the division of cannabis control shall request that the person obtain through the superintendent a criminal records request from the federal bureau of investigation as part of the criminal records check of the person. Even if a person presents proof of having been a resident of this state for the five-year period, the division of cannabis control may request that the person obtain information through the superintendent from the federal bureau of investigation in the criminal records check.

(C) The division of cannabis control shall provide the following to each person who is subject to the criminal records check requirement:

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

(2) Written notification that the person is to instruct the superintendent to submit the completed report of the criminal records check directly to the division of cannabis control.

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

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

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

(2) The staff of the division of cannabis control and the director; and

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

(a) A license denial resulting from the criminal records check;

(b) A civil or criminal action regarding the division of cannabis control or any violation of this chapter.

(F) The division of cannabis control shall deny a license if, after receiving the information and notification required by this section, a person subject to the criminal records check requirement fails to do either of the following:

(1) Access, complete, or forward to the superintendent of the bureau of criminal identification and investigation the form prescribed pursuant to division (C)(1) of section 109.572 of the

Revised Code or the standard impression sheet prescribed pursuant to division (C)(2) of that section;

(2) Instruct the superintendent to submit the completed report of the criminal records check directly to the division of cannabis control.

(G) The superintendent of the bureau of criminal identification and investigation shall conduct a criminal record check under section 109.572 of the Revised Code in a consistent manner as the superintendent conducts a criminal record check as required for sections 3796.12 and 3796.13 of the Revised Code upon the receipt of a request, a completed form prescribed pursuant to section 109.572(C)(1) of the Revised Code, and a set of fingerprint impressions obtained in a manner described in section 109.572(C)(2) of the Revised Code. The superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in section 109.572(B) of the Revised Code to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or plead guilty to a disqualifying offense as defined in this chapter and as clarified in rules adopted under this chapter.

Section 3780.09. Location of adult use cannabis operators.

(A) Notwithstanding any provision of Chapter 3796 of the Revised Code or Chapter 3796 of the Administrative Code, an adult use cannabis operator and an adult use testing laboratory licensed under this chapter shall conduct business under their license at the same location where the adult use cannabis operator or adult use testing laboratory, or the same owners of the adult use cannabis operator or adult use testing laboratory, also have been issued a certificate of operation, unless the adult use cannabis operator or adult use testing laboratory relocates all or a portion of their facility and business if authorized under this chapter and rules adopted by the division of cannabis control.

(B) All other applicants who do not have a certificate of operation shall conduct business at a facility consistent with this chapter and as approved by the division of cannabis control.

Section 3780.10. Adult use cannabis operator and adult use testing laboratory licenses.

(A) No person shall operate as an adult use cannabis operator or adult use testing laboratory without a license issued pursuant to this chapter.

(B) The following licenses shall be issued by the division of cannabis control within nine months of the effective date of this section if the license applicant is in compliance with section 3780.11 of the Revised Code and this chapter, and the license applicant, or the same owners of the license applicant, have a certificate of operation or medical provisional license issued as of the effective date of this section:

(1) A dispensary issued a certificate of operation or medical provisional license shall be issued an adult use dispensary license under this chapter for the current location of the dispensary;

(2) A level I cultivator issued a certificate of operation or medical provisional license shall be issued under this chapter three adult use dispensary licenses at locations designated in a license

application, and one level I adult use cultivator license for the current location of the level I cultivation facility;

(3) A level II cultivator issued a certificate of operation or medical provisional license shall be issued under this chapter one adult use dispensary license at a location designated in the license application, and one level II adult use cultivator license for the current location of the level II cultivation facility;

(4) A dispensary issued a certificate of operation or medical provisional license shall be issued under this chapter one adult use dispensary license at a different location as designated in the license application if the dispensary does not have any common ownership or control with any level I adult use cultivator, level II adult use cultivator, or adult use processor license applicant or licensee;

(5) A processor issued a certificate of operation or medical provisional license shall be issued under this chapter one adult use processor license for the current location of the processor; and

(6) A testing laboratory issued a certificate of operation shall be issued under this chapter one adult use testing laboratory license for the current location of the testing laboratory.

Notwithstanding anything in this section, a license shall not be issued pursuant to division (B) of this section to a license applicant holding only a related medical provisional license unless the medical provisional license holder is issued a certificate of operation within two years of the effective date of this section.

(C) The division of cannabis control shall issue up to forty level III adult use cultivator licenses consistent with this chapter with preference provided to applicants who have been certified as cannabis social equity and jobs program participants under the cannabis social equity and jobs program pursuant to 3780.19 of this chapter. No person may have any ownership or control in more than one level III adult use cultivator license under this chapter. No adult use cultivator or adult use processor may have any ownership or control in a level III adult use cultivator license.

(D) The division of cannabis control shall issue up to fifty additional adult use dispensary licenses in conformity with this chapter with preference provided to applicants who have been certified as cannabis social equity and jobs program participants under the cannabis social equity and jobs program.

(E) Following twenty-four months from the first date of issuance of an adult use operator license, the division of cannabis control shall review the number of adult use cannabis operator licenses on a biannual basis and may authorize additional licenses after considering:

(1) The current and anticipated market growth and consumer demand, including the number of adult use consumers seeking adult use cannabis;

(2) The current and projected supply of adult use cannabis produced by licensed adult use cultivators, level III adult use cultivators, and adult use processors; and

(3) The geographic distribution of adult use dispensary sites in an effort to ensure adult use customer access to adult use cannabis.

(F)(1) The division of cannabis control shall provide a report and recommendation within ninety days of the conclusion of the requirements in division (E) of this section to the director for consideration.

(2) The division of cannabis control may adopt rules as necessary to implement this division.

(3) The division of cannabis control shall adopt a rule regarding the number of licenses a license holder may hold for each type of license consistent with this chapter. As of the effective date of this section, and notwithstanding any other provision of this chapter, no person shall be issued more than eight adult use dispensary licenses, and not more than one adult use cultivator license, and not more than one adult use processor license at any time, unless authorized by the division of cannabis control after an analysis supporting the licensing pursuant to rule.

(G) The division of cannabis control may authorize additional adult use testing laboratory licenses at any time.

Section 3780.11. Application requirements for adult use cannabis operators and adult use testing laboratories.

(A) An adult use cannabis operator and adult use testing laboratory license applicant authorized to file an application may file an application for licensure with the division of cannabis control. Each application shall be submitted in accordance with rules adopted under section 3780.03 of the Revised Code and in conformity with this chapter. Initial applications shall be made available to adult use operators and adult use testing laboratory within six months of the effective date of this section and license applicants shall comply with all requirements of this chapter and related rules prior to the issuance of a license.

(B) The division of cannabis control shall issue a license to an applicant if all of the following conditions are met:

(1) The report of the criminal records check conducted pursuant to section 3780.08 of the Revised Code with respect to the application demonstrates the following:

(a) The criminal offenses for which an applicant will be disqualified from licensure; and

(b) The criminal offenses that will not disqualify an applicant from licensure if the applicant was convicted of or pleaded guilty to the offense more than five years before the date the application for licensure is filed.

(2) The adult use cannabis operator applicant demonstrates that it does not have an ownership or investment interest in or compensation arrangement with any of the following:

(a) An adult use testing laboratory licensed under this chapter; or

(b) An applicant for a license to conduct adult use laboratory testing.

(3) The adult use cannabis operator applicant demonstrates that it does not share any corporate officers or employees with any of the following:

(a) An adult use testing laboratory licensed under this chapter; or

(b) An applicant for a license to conduct adult use laboratory testing.

(4) The adult use testing laboratory applicant demonstrates that it does not have an ownership or investment interest in or compensation arrangement with any of the following:

(a) An adult use cannabis operator licensed under this chapter; or

(b) An applicant for a license to conduct adult use cannabis operations.

(5) The adult use testing laboratory applicant demonstrates that it does not share any corporate officers or employees with any of the following:

(a) An adult use cannabis operator licensed under this chapter; or

(b) An applicant for a license to conduct adult use cannabis operations.

(6) The applicant demonstrates that the operations will not be located within five hundred feet of a prohibited facility consistent with this chapter unless the prohibited facility was located within five hundred feet after the applicant filed the application with the division of cannabis control, or after the applicant, or the applicant owners, was operating under Chapter 3796 of the Revised Code at the same location, or unless otherwise authorized in this chapter.

(7) The information provided to the division of cannabis control pursuant to section 3780.06 of the Revised Code demonstrates that the applicant is in compliance with the applicable tax laws of this state.

(8) The applicant meets all other license eligibility conditions established in rules adopted under section 3780.03 of the Revised Code.

(9) The applicant is not employed by a regulatory body of a governmental unit of this state and in that capacity has significant influence or control, as determined by the division of cannabis control, over the ability of the applicant to conduct business in this state.

(C) A license expires according to the renewal schedule established in rules adopted under section 3780.03 of the Revised Code and may be renewed in accordance with the procedures established in those rules. A license shall be automatically renewed by the division of cannabis control unless good cause is otherwise shown.

Section 3780.12. Level I and level II adult use cultivator license.

(A) Notwithstanding any conflicting provision of the Revised Code and except as provided in division (B) of this section, the holder of a current and valid level I or level II adult use cultivator license issued under this chapter may do either of the following:

(1) Cultivate adult use cannabis;

(2) Distribute, transfer, and sell adult use cannabis to other adult use cannabis operators; and

(3) Acquire seeds, clones, plants, and other genetic material.

(B) A level I or level II adult use cultivator license holder shall not cultivate any adult use cannabis for personal, family, or household use under the license.

Section 3780.13. Level III adult use cultivator license.

(A) Notwithstanding any conflicting provision of the Revised Code, and except as provided in division (B) of this section, the holder of a current and valid level III adult use cultivator license issued under this chapter may do any of the following:

(1) Cultivate adult use cannabis;

(2) Distribute, transfer, and sell adult use cannabis to other adult use cannabis operators; and

(3) Acquire seeds, clones, plants, and other genetic material.

(B) A level III adult use cultivator license holder shall not cultivate any adult use cannabis for personal, family, or household use under the license.

Section 3780.14. Adult use processor license.

(A) Notwithstanding any conflicting provision of the Revised Code, the holder of a current and valid adult use processor license issued under this chapter may do any of the following:

(1) Obtain cannabis from adult use cannabis operators;

(2) Subject to the rules adopted pursuant to this section, process adult use cannabis obtained from adult use cannabis operators into a form authorized under this chapter; and

(3) Distribute, transfer, and sell processed adult use cannabis to adult use cannabis operators.

Section 3780.15. Adult use dispensary license.

(A) Notwithstanding any conflicting provision of the Revised Code, the holder of a current and valid adult use dispensary license issued under this chapter may do the following:

(1) Obtain adult use cannabis from adult use processors, adult use cultivators, level III adult use cultivators, and other adult use dispensaries;

(2) Distribute, transfer, or sell adult use cannabis to adult use cannabis operators;

(3) Provide delivery of adult use cannabis and cannabis paraphernalia to patrons as established in rules adopted under section 3780.03 of the Revised Code; and

(4) Dispense or sell adult use cannabis in accordance with division (B) of this section and sell paraphernalia.

(B) When dispensing or selling adult use cannabis, a licensed adult use dispensary shall do all of the following:

(1) Dispense or sell adult use cannabis only to those adult use consumers who present a current, valid identification card demonstrating proof that the adult use consumer is twenty-one years of age or older;

(2) Only accept adult use cannabis from a licensed adult use cannabis operator that has been prepackaged and labeled in compliance with chapter 3780 of the Revised Code and the rules adopted under 3780.03 of the Revised Code; and

(3) Not dispense or sell adult use cannabis to adult use consumers per day in amounts that exceed the possession limits in 3780.36(B)(1) of the Revised Code.

(C) When operating a licensed adult use dispensary, an adult use dispensary shall:

(1) Only use licensed individuals who have met the training requirements established in rules adopted under section 3780.03 of the Revised Code; and

(2) Maintain addiction services information materials available at the adult use consumer's request.

Section 3780.16. Adult use testing laboratory license.

(A) Notwithstanding any conflicting provision of the Revised Code, the holder of a current and valid adult use testing laboratory license issued under this chapter may do both of the following:

(1) Obtain adult use cannabis from one or more adult use cannabis operators licensed under this chapter for testing purposes only; and

(2) Conduct cannabis testing, research and operations in the manner specified in rules adopted under section 3780.03 of the Revised Code.

Section 3780.17. Licensure of individuals.

(A) The division of cannabis control may issue a license to an individual applicant required to be licensed related to an adult use cannabis operator or adult use testing laboratory after it has determined that the applicant is eligible for a license under rules adopted by the division of cannabis control and after the applicant has paid any applicable fees.

(B) To be eligible for a license, an applicant shall be at least twenty-one years of age.

(C) Each application for a license shall be on a form prescribed by the division of cannabis control and shall contain all information required by the division of cannabis control.

(D) Each applicant shall submit with each application, on a form provided by the division of cannabis control, two sets of the applicant's fingerprints and a photograph as required by rule consistent with this chapter. The division of cannabis control shall charge each applicant an application fee to cover all actual regulatory costs generated by each licensee and all background checks.

(E) A license issued under this section is portable and may be used at any adult use cannabis operator or adult use testing laboratory as long as such licensee is registered with the division of cannabis control for each location where the licensee works or is employed.

Section 3780.18. Purpose of cannabis social equity and jobs program.

(A) Additional efforts are needed to reduce barriers to ownership and opportunities within the adult use cannabis industry for individuals and communities most adversely impacted by the enforcement of marijuana-related laws.

(B) In the interest of establishing an adult cannabis industry that is equitable and accessible to those most adversely impacted by the enforcement of marijuana-related laws in this State, the cannabis social equity and jobs program should be established.

(C) Individuals who have been arrested or incarcerated due to drug laws suffer long-lasting negative consequences, including impacts to employment, business ownership, housing, health, and long-term financial well-being.

(D) Family members, especially children, and communities of those who have been arrested or incarcerated due to drug laws, suffer from emotional, psychological, and financial harms as a result of such arrests or incarcerations.

(E) Certain communities have disproportionately suffered the harms of enforcement of marijuana-related laws. Those communities face greater difficulties accessing traditional banking systems and capital for establishing businesses.

(F) Individuals who have resided in areas of high poverty suffer negative consequences, including barriers to entry in employment, business ownership, housing, health, and long-term financial well-being.

(G) Promotion of business ownership and employment by individuals who have resided in areas of high poverty and high enforcement of marijuana-related laws furthers an equitable cannabis industry.

(H) Therefore, in the interest of remedying the harms resulting from the disproportionate enforcement of marijuana-related laws, a cannabis social equity and jobs program shall provide financial assistance and license application support to individuals most directly and adversely

impacted by the enforcement of marijuana-related laws who are interested in starting or working in cannabis business entities.

Section 3780.19. Cannabis social equity and jobs program.

(A) As used in this section, "cannabis social equity and jobs program participant" means a person certified as a participant in the cannabis social equity program by the department of development under this section of the Revised Code.

(B) The department of development shall establish a business assistance program known as the cannabis social equity and jobs program funded by the cannabis social equity and jobs fund, and shall adopt rules in accordance with Chapter 119 of the Revised Code to administer the program including the following:

(1) Establish procedures by which a person may apply for certification under the cannabis social equity and jobs program;

(2) Establish a system of certifying cannabis social equity and job program applicants based on a requirement that the business owner or owners show both social and economic disadvantage based on the following, as determined to be sufficient by the department of development:

(a) Wealth of the business seeking certification as well as the personal wealth of the owner or owners of the business.

(b) Social disadvantage based on any of the following:

(i) The business owner or owners demonstrate membership in a racial minority group or show personal disadvantage due to color, ethnic origin, gender, physical disability, or long-term residence in an area of high unemployment;

(ii) The owner or owners, or their spouse, child, or parent, have been arrested for, convicted of, or adjudicated delinquent for a marijuana related offense as determined by rule by the department of development prior to the effective date of this section.

(c) Economic disadvantage based on economic and business size thresholds and eligibility criteria designed to stimulate economic development through license awards to businesses located in qualified census tracts.

(3) Establish standards to determine when a cannabis social equity and jobs program participant no longer qualifies for cannabis social equity program certification;

(4) Develop a process for evaluating and adjusting goals established by this section to determine what adjustments are necessary to achieve participation goals established by the department of development;

(5) Implement an outreach program to educate potential participants about the cannabis social equity and jobs program;

(6) Implement a system of self-reporting by cannabis social equity and jobs program participants on compliance, as well as an on-site inspection process to validate the qualifications of a cannabis social equity program;

(7) Establish a process for when there is a transfer of a license from a certified cannabis social equity and jobs program participant to a person or entity that does not qualify as a participant to the cannabis social equity and jobs program, which process shall not undermine the policy goals of the program;

(8) Provide financial assistance, loans, grants, and technical assistance to persons certified by the department under the cannabis social equity and jobs program pursuant to rules adopted under this section. Notwithstanding any other law to the contrary, the cannabis social equity and jobs program fund is not subject to budgetary sweeps, administrative charge-backs, or any other fiscal or budgetary maneuver that would in any way transfer any amounts from the cannabis social equity and jobs program fund into any other fund of the state;

(9) Encourage employment practices, in which an adult use cannabis operator can demonstrate a plan of action to inform, hire, and educate minorities, women, veterans, and persons with disabilities, engage in fair labor practices, and provide worker protections;

(10) Study and fund judicial and criminal justice reform including bail, parole, sentencing reform, expungement and sealing of records, legal aid, and community policing related to marijuana;

(11) Study and propose policy reforms to address the social and economic impacts of the enforcement of marijuana laws and to track and prevent underage use of marijuana;

(12) Fund direct investment in disproportionately impacted communities to enhance education, entrepreneurism, legal aid, youth development, violence prevention, and the arts related to the program; and

(13) Utilize the cannabis social equity and jobs fund exclusively for the purposes of this section and for the implementation of this section.

(C) For certified cannabis social equity and job program participants, the division of cannabis control shall waive at least fifty percent of any license or application fees associated with a license holder's application or license.

(D) Any business or personal financial information, or trade secrets submitted by a cannabis social equity and jobs program applicant to the department of development pursuant to this section are not public records for purposes of section 149.43 of the Revised Code, unless the division of cannabis control or department of development is required to present the financial information or trade secrets at a public hearing or public proceeding regarding the applicant's

eligibility to participate in the program in which case the agency shall only disclose any required information.

(E) Any license or other preference to persons certified under the cannabis social equity and jobs program under this section shall be based on substantiated evidence that the preference is needed to address the goals of cannabis social equity and job program under this chapter.

(F) The department of development shall create a cannabis social equity and jobs program advisory group promulgated through rule in accordance with Chapter 119 of the Revised Code. The advisory group may develop and submit to the department of development on any recommendations related to the cannabis social equity and jobs program under sections 3780.18 and 3780.19 of the Revised Code.

Section 3780.20. Operations.

(A) Adult use cannabis operators and adult use testing laboratories shall adopt operating procedures and comply with operation requirements required by rules under 3780.03 of the Revised Code, which include, but are not limited to, the following as applicable:

(1) Quality assurance;

(2) Package and labeling;

(3) Waste disposal;

(4) Inventory control and storage;

(5) Monitoring, surveillance and security requirements;

(6) Laboratory testing;

(7) Records and reporting requirements;

(8) Hours of operation and procedures when location is closed;

(9) Receipt of adult use cannabis;

(10) Dispensing errors reporting and review;

(11) Destruction and disposal of adult cannabis;

(12) Recall procedures; and

(13) Transportation of adult use cannabis.

(B) No adult use cannabis operator may sell or dispense adult use cannabis without remuneration unless authorized under rule pursuant to 3780.03 of this chapter.

(C) The division of cannabis control may adopt other operation rules as necessary consistent with this chapter.

Section 3780.21. Advertising.

(A) The division of cannabis control may adopt rules regulating advertisements of license holders to prevent advertisements that are false, misleading, targeted to minors, promote excessive use, or that promote illegal activity.

(B) Rules adopted by the division of cannabis control pursuant to section (A) of this chapter shall not require preapproval and shall not overly burden the legitimate commercial speech of adult use cannabis operators in communicating with adult use consumers. Notwithstanding, the division of cannabis control may adopt narrowly tailored time and place restrictions preventing advertising targeted to minors.

(C) The division of cannabis control at any time may conduct an audit of license holder's published advertisements to ensure it complies with section (A) of this chapter and the rules adopted pursuant to this chapter.

(D) The division of cannabis control may require a license holder to stop using an advertisement if the division of cannabis control finds the license holder violated rules adopted pursuant to division (A) of this section.

Section 3780.22. Tax levied on adult use consumers.

(A) For the purpose of supporting social equity issues, providing funds to support jobs and economic development, providing funding for host communities who have adult use dispensaries in their jurisdiction to support these communities, funding education and treatment for individuals with cannabis and other addiction issues, and defraying the costs of regulation and administering the tax, there shall be an adult use tax on the sale of adult use cannabis by adult use dispensaries to adult use consumers in accordance with this chapter.

(B) The rate of the adult use tax shall be ten per cent. The adult use tax applies and is collectable when the sale is made, regardless of the time when the price is paid, or when the adult use cannabis is delivered.

(C) The adult use tax is in addition to the tax levied or collected under Chapter 5739 of the Revised Code on adult use cannabis sales by adult use dispensaries to adult use consumers.

(D) The tax authorized under division (A) shall be collected consistent with Chapter 5739 of the Revised Code, but the tax commissioner shall adopt rules the commissioner deems necessary to administer the adult use tax including the licensure, filing, collection, distribution, refund, assessment, bad debt, liability of unpaid taxes, recordkeeping, and any penalty related to the adult use tax consistent with this chapter.

Section 3780.23. Funds created.

(A) For the purpose of receiving and distributing, and accounting for, revenue received from the adult use tax levied by section 3780.22 of the Revised Code, the following funds are created in the state treasury:

(1) The adult use tax fund;

(2) The cannabis social equity and jobs fund;

(3) The host community cannabis fund;

(4) The substance abuse and addiction fund; and

(5) The division of cannabis control and tax commissioner fund.

(B) All monies collected from the tax levied under this chapter shall be deposited into the adult use tax fund.

(C) Unless otherwise authorized under this chapter or rule, the director of budget and management shall transfer amounts to each fund as follows:

(1) Thirty-six per cent to the cannabis social equity and jobs fund to be used to implement the requirements of 3780.19 of the Revised Code;

(2) Thirty-six per cent to the host community cannabis fund for the benefit of municipal corporations or townships that have adult use dispensaries, and the municipal corporations or townships may use such funds for any approved purpose. Distributions to municipal corporations or townships shall be based on the percentage of adult use tax attributable to each municipal corporation or township;

(3) Twenty-five per cent to the substance abuse and addiction fund to support the efforts of the department of mental health and addiction services to alleviate substance and opiate abuse and related research in the state under section 3780.30 of the Revised Code; and

(4) Three per cent to the division of cannabis control and tax commissioner fund to support the operations of the division of cannabis control and to defray the cost of the department of taxation for administering the tax levied under section 3780.22 of the Revised Code.

Payments under of this section shall be made by the end of the month following the end of each quarterly period. The tax commissioner shall make the data available to the director of the office of budget and management for this purpose and the director of budget and management shall transfer amounts the funds in this section as required. The tax commission may serve as agent of the municipal corporations or townships only for the purposes of division (C)(2) of this section as promulgated by rule.

Section 3780.24. Tax administration and enforcement.

The tax commissioner shall administer and enforce sections 3780.22 through 3780.23 of this chapter. In addition to any other powers conferred upon the tax commissioner by law, the tax commissioner may:

(A) Prescribe all forms that are required to be filed under sections 3780.22 through 3780.23 of this chapter;

(B) Adopt rules that are necessary and proper to carry out section 3780.22 through 3780.23 of this chapter; and

(C) Appoint professional, technical, and clerical employees as are necessary to carry out the tax commissioner's duties under sections 3780.22 through 3780.23 of this chapter.

Section 3780.25. Local authority regarding adult use cannabis operators.

(A) The legislative authority of a municipal corporation may adopt an ordinance, or a board of township trustees may adopt a resolution, by majority vote to prohibit, or limit the number of adult use cannabis operators permitted under this chapter within the municipal corporation or within the unincorporated territory of the township, respectively.

(B) Notwithstanding, division (A) above:

(1) Existing cultivators, processors, or dispensaries who have a certificate of operation may not be prohibited or limited by a municipal corporation or township from operating under Chapter 3796 of the Revised Code and Chapter 3796 of the Administrative Code by a municipal corporation or township unless there is a revocation of the certificate of operation;

(2) Adult use cultivators, adult use processors, and adult use dispensaries that are co-located on the same parcel or contiguous parcels with an adult use cultivator and an adult use processor, who are applicants or license holders under this chapter, and whose owners also have a certificate of operation at the same location as the effective date of this section, may not be prohibited or limited by any municipal corporation or township from operating as an adult use cultivator, adult use processor, or an adult use dispensary co-located with an adult use cultivator and an adult use processor under this chapter because of the significant capital investment in the facilities; and

(3) Dispensaries, or the owners of dispensaries, who have a certificate of operation, and who are not co-located on the same parcel or contiguous parcels with a cultivator or processor that has a certificate of operation, as of the effective date of this section, shall also be authorized to operate as an adult use dispensary without any municipal or township prohibitions upon receiving a license from the division of cannabis control, unless a majority of the members of the legislative authority of a municipal corporation affirmatively pass an ordinance, or a majority of township trustees in a township affirmatively pass a resolution, after the license is issued and within one hundred and twenty days from license issuance, prohibiting the operation of the adult use dispensary within the municipal corporation or within the unincorporated territory of the township, respectively.

(C) If a majority of the members of the legislative authority of a municipal corporation pass an ordinance, or a majority of township trustees in a township pass a resolution, prohibiting the adult use dispensary pursuant to division (B)(3) of this section, then the adult use dispensary license holder shall cease operations within sixty days, unless the adult use dispensary license holder files with the board of elections within the sixty day timeframe a petition prescribed by the secretary of state, and signed by the lessor of one hundred qualified electors or five per cent of the qualified electors of the municipal corporation or township, requesting that the issue, of whether the adult use dispensary shall remain open as long as the adult use dispensary is licensed pursuant to chapter 3780 of the Revised Code by the division of cannabis control and the municipal corporation or township is eligible to receive host community cannabis funding, be placed on the next general election ballot which election shall not occur less than ninety days from petition filing. If the required signatures and form of petition is verified by the board of election, the issue shall be placed on the next general election which is ninety days or greater away from the petition filing, and notwithstanding any provision of this chapter, the adult use dispensary license holder may continue to operate until the issue is decided at the next authorized general election. A board of elections may discontinue verifying signatures when the number of verified signatures on a petition equals the minimum number of qualified signatures. The secretary of state shall adopt rules in accordance with 119 of the Revised Code for the proper administration and implementation of divisions (C) and (D) of this section.

(D) The form of the ballot to be used at the election provided for in division (C) of this section shall be as follows:

"Shall the following adult use dispensary, _____ (here insert name of adult use dispensary), whose owners also have had a licensed medical marijuana dispensary at _____ (here insert address) since _____ (here insert the date of opening), remain open as long as the adult use dispensary is licensed pursuant to Chapter 3780 of the Revised Code by the Division of Cannabis Control under the Department of Commerce, and the_____ (here insert name of municipal corporation or township) is eligible to receive host community cannabis funding?

Yes, for the Issue	
No for the Issue	

"

(E) If a majority of the voters at the general election vote yes for the issue, then the adult use dispensary may operate within the municipal corporation or township and the municipal corporation or township shall receive related host community cannabis funding as authorized under section 3780.23 of the Revised Code.

(F) If a majority of the voters at the general election vote no for the issue, then:

(1) The dispensary with a certificate of operation at that location may continue to operate at its current address, or the dispensary may request to relocate the dispensary within ninety days of election certification consistent with the requirements of Chapter 3796 of the Revised Code, and

related rules, which relocation request shall be approved regardless of the dispensary districts established by the board of pharmacy as long as the relocation request meets all other applicable requirements of Chapter 3796 of the Revised Code and related rules; and

(2) The adult use dispensary must close within ninety days unless the adult use dispensary applies to the division of cannabis control for a request to relocate within ninety days of the election certification, and then the adult use dispensary may continue to operate until the request to relocate is approved by the division of cannabis control. The division of cannabis control shall review and approve a request to relocate timely once the request to relocate application is in compliance with this chapter and related rules.

(G) A legislative authority of a municipal corporation or a board of township trustees is prohibited from:

(1) Adopting an ordinance or resolution limiting research related to marijuana conducted at a state university, academic medical center, or private research and development organization as part of a research protocol approved by an institutional review board or equivalent entity;

(2) Levying any tax, fee, or charge on adult use cannabis operators, their owners or their property which is not generally charged on other businesses in the municipal corporation or township;

(3) Prohibiting or limiting home grow otherwise authorized under this chapter; and

(4) Prohibiting or restricting an activity that is authorized by this chapter.

Section 3780.26. Enforcement authority of the division of cannabis control.

(A) The division of cannabis control shall enforce, or cause to be enforced, all sections of this chapter and the rules adopted thereunder. If the division of cannabis control has information that any provision of this chapter or that any rule adopted thereunder has been violated, it may investigate the matter and take any reasonable action as it considers appropriate.

(B) The division of cannabis control may do any of the following for any reason specified in rules adopted under section 3780.03 of the Revised Code:

(1) Suspend, suspend without prior hearing upon finding clear and convincing evidence that continued distribution of adult use cannabis presents a danger of immediate and serious harm to others, revoke, restrict, or refuse to renew a license it issued under this chapter;

(2) Refuse to issue a license unless a license is required in accordance with this chapter;

(3) Inspect the premises of an adult use cannabis operator or an adult use testing laboratory without prior notice; or

(4) Impose on a provisional license holder or license holder a civil penalty in an amount to be determined by the division of cannabis control through rule to be paid into the division of cannabis control and tax commissioner fund.

(C) If the division of cannabis control suspends, revokes, or refuses to renew any license issued under this chapter or determines that there is clear and convincing evidence of a danger of immediate and serious harm to any individual, the division of cannabis control may place under seal all adult use cannabis owned by or in the possession, custody, or control of the affected license holder. Except as provided in this section, the division of cannabis control shall not dispose of the adult use cannabis sealed under this section until the license holder exhausts all of the license holder's appeal rights under Chapter 119 of the Revised Code. The court involved in such an appeal may order the division of cannabis control, during the pendency of the appeal, to sell cannabis that is perishable. The division of cannabis control shall deposit the proceeds of the sale with the court.

(D) The division of cannabis control's enforcement actions under this section shall be taken in accordance with Chapter 119 of the Revised Code.

(E) Nothing in this chapter shall be construed to require the division of cannabis control to enforce minor violations of this chapter if the division of cannabis control determines that the public interest is adequately served by a notice or warning to the alleged offender.

Section 3780.27. Enforcement by the attorney general.

(A) Upon receiving a written request from the division of cannabis control, the Ohio attorney general may bring a cause of action to restrain a violation of this chapter. Such an action is a civil action, governed by the Rules of Civil Procedure.

(B) The court of common pleas of Franklin county shall give any claim filed under division (A) of this section priority over all other civil cases before the court, irrespective of position on the court's calendar, and shall make a determination on the claim expeditiously. A court of appeals shall give any appeal from a final order issued in a case brought under division (A) of this section priority over all other civil cases before the court, irrespective of position on the court's calendar, and shall make a determination on the appeal expeditiously.

(C) Any action filed under division (A) of this section does not preclude an administrative or criminal proceeding on the same facts.

Section 3780.28. Enforcement of chapter.

(A) If the division of cannabis control fails to adopt rules necessary to initially implement this chapter within nine months of the effective date of this chapter or fails to begin accepting license applications within six months of the effective date of this chapter as provided in section 3780.11 of the Revised Code, any citizen of the state of Ohio may commence an action in the court of common pleas of Franklin county, Ohio to compel the division of cannabis control to perform the actions mandated under this chapter.

(B) If the division of cannabis control fails to issue a license to an adult use cannabis operator, or send a notice of denial to an applicant, within three months after receiving a complete adult use

cannabis operator application pursuant to section 3780.11 of the Revised Code, the applicant may:

(1) Commence an action in the court of common pleas of Franklin county, Ohio to compel the division of cannabis control to perform the actions mandated under this chapter; and

(2) Unless the division of cannabis control can demonstrate in writing that operating presents a danger of immediate and serious harm to others, operate under a temporary license, which shall be issued by the division of cannabis control, and in compliance with this chapter, until the division of cannabis control issues or denies the license. If this occurs, the adult use cannabis operator license applicant may only operate if the applicant:

(a) Is also operating at the application location under a corresponding certificate of operation issued under Chapter 3796 of the Revised Code and Chapter 3796 of the Administrative Code; and

(b) Complies with this chapter and any rules adopted by the division of cannabis control under this chapter.

(C) Nothing in this section shall be construed to authorize the operation of an adult use cannabis operator or a medical marijuana cultivator, processor, or dispensary whose license, certificate of operation or application has been suspended, revoked, or denied, including a suspension, revocation, or denial due to a determination by the division of cannabis control that the applicant or operator has violated this chapter or committed a disqualifying offense.

Section 3780.29. Home Grow.

(A) Except as otherwise provided in this chapter, and notwithstanding any other provision of the Revised Code, the following acts by an adult use consumer are lawful:

(1) Cultivating, growing, and possessing not more than six cannabis plants at the individual's primary residence, if all of the following apply:

(a) Not more than twelve cannabis plants are cultivated or grown at a single residence where two or more individuals who are at least twenty-one years of age reside at any one time; and

(b) Cultivation or growing of adult use cannabis only takes place within a secured closet, room, greenhouse, or other enclosed area in or on the grounds of the residence that prevents access by individuals less than twenty-one years of age, and which is not visible by normal unaided vision from a public space.

(2) Processing by manual or mechanical means adult use cannabis cultivated or grown in accordance with this section; or

(3) Transferring up to six cannabis plants to an adult use consumer as long as the transfer is without remuneration and not advertised or promoted to the public.

(B) An adult use consumer may store at their primary residence adult use cannabis that was purchased from an adult use dispensary licensed under this chapter or produced in compliance with this section.

(C) This section does not authorize an individual to:

(1) Cultivate, grow, or process adult use cannabis except at the individual's primary residence;

(2) Permit individuals less than twenty-one years of age to use, cultivate, process, transfer, or transport adult use cannabis;

(3) Process adult use cannabis by hydrocarbon-based extraction; or

(4) Sell, or profit from, adult use cannabis except as specifically authorized in this chapter.

(D) A landlord may prohibit conduct otherwise authorized under division (A) this section so long as such prohibition is included in the applicable lease agreement.

(E) The division of cannabis control shall adopt rules setting forth a schedule of civil penalties that may be applied for violations of this section.

(F) If an individual cultivates or grows double the maximum number of cannabis plants permitted under division (A) of this section or transfers cannabis plants in violation of division (A)(3) of this section, division (F) of section 3780.99 of the Revised Code shall apply.

Section 3780.30. Cannabis addiction services; toll-free numbers.

(A) The division of cannabis control shall enter into an agreement with the department of mental health and addiction services under which the department shall provide a program for cannabis addiction services to be implemented on behalf of the division of cannabis control which includes best practices for education and treatment for individuals with addiction issues related to cannabis or other controlled substances including opioids.

(B) The department of mental health and addiction services shall establish, operate, and publicize an in-state, toll-free telephone number Ohio residents may call to obtain basic information about addiction services available to consumer, and options for an addicted consumer to obtain help. The telephone number shall be staffed twenty-four hours per day, seven days a week in order to respond to inquiries and provide that information. The costs of establishing, operating, and publicizing the telephone number shall be paid for with money in the substance abuse and addiction fund.

(C) The director of mental health and addiction services shall administer the substance abuse and addiction fund. The director shall use the money in the fund to support addiction services or other services that relate to addiction and substance abuse, and research that relates to addiction and substance abuse. Treatment and prevention services supported by money in the fund under this section shall be services that are certified by the department of mental health and addiction services.

(D) The director mental health and addiction services shall prepare an annual report describing the use of the fund for these purposes. The director shall submit the report to the director of the department of commerce, the speaker and minority leader of the house of representatives, the president and minority leader of the senate, and the governor.

(E) License holders shall provide informational resources for patrons related to cannabis addiction issues and services.

(F) License holders shall provide training for their employees regarding the cannabis addiction services resources for patrons related to this section.

Section 3780.31. Confidentiality.

(A) The following information submitted, collected, or gathered under this chapter is confidential and not subject to disclosure by any state agency or political subdivision as a public record under section 149.43 of the Revised Code:

(1) Social security numbers, passport numbers, or federal tax identification numbers;

(2) Home addresses and telephone numbers;

(3) Birth certificates;

(4) Driver's license numbers;

(5) Dates of birth;

(6) Places of birth;

(7) The personal financial information and records, including tax returns and information, and records of criminal proceedings;

(8) Any information concerning a victim of domestic violence, sexual assault, or stalking;

(9) Electronic mail addresses;

(10) Internet Protocol addresses or similar addresses;

(11) Any trade secret, and patents, or exclusive licenses;

(12) Client records and adult use consumer identifying information; and

(13) Security information, including risk prevention plans, detection and countermeasures, location of vaults or other money and/or cannabis storage areas, emergency management plans, security and surveillance plans, equipment and usage protocols, and theft and fraud prevention plans and countermeasures.

(B) Notwithstanding any other law, upon written request, the division of cannabis control shall provide the following information, except as provided in this chapter:

(1) The amount of tax paid to the state by any license holder; and

(2) A copy of a letter providing the reasons for the denial of an applicant's license, but with confidential information redacted.

(C) An individual who holds, held, or has applied for a license under this chapter may waive the confidentiality requirements of division (A) of this section.

(D) Confidential information received by the division of cannabis control from another jurisdiction relating to an individual who holds, held, or has applied for a license under this chapter is confidential and not subject to disclosure as a public record under section 149.43 of the Revised Code.

(E) After giving reasonable notice to the applicant, the current or former provisional license holder, or the current or former license holder, the division of cannabis control may share any information gathered pursuant to this chapter with, or disclose the information to, the inspector general, any appropriate prosecuting authority, any law enforcement agency, or any other appropriate governmental or licensing agency, but the agency that receives the information shall comply with the same requirements regarding confidentiality required under Ohio law.

(F) The division of cannabis control, and any entity under contract with the division of cannabis control, shall not make public any information reported to or collected by the division of cannabis control under this chapter that identifies or would tend to identify any adult use consumer, or tend to show any adult use consumer's purchase history.

Section 3780.32. Venue for court actions.

(A) Any action asserting that this chapter, any portion of this chapter, or any rule adopted thereunder, violates any provision of the Ohio Constitution or federal law shall be brought in the court of common pleas of Franklin county within ninety days after the effective date of the enactment of this chapter or within ninety days after the effective date of any rule adopted pursuant to this chapter, as applicable.

(B) Any claim asserting that any action taken by the division of cannabis control under this chapter violates any provision of the Ohio Constitution or any provision of the Revised Code shall be brought in the court of common pleas of Franklin county within ninety days after the action is taken.

(C) Divisions (A) and (B) of this section do not apply to any claim within the original jurisdiction of the Supreme Court of Ohio or any court of appeals under Article IV of the Ohio Constitution.

(D) The court of common pleas of Franklin county shall give any claim filed under (A) or (B) of this section priority over all other civil cases before the court, irrespective of position on the

court's calendar, and shall make a determination on the claim expeditiously. A court of appeals shall give any appeal from a final order issued in a case brought under divisions (A) or (B) of this section priority over all other civil cases before the court, irrespective of position on the court's calendar, and shall make a determination on the appeal expeditiously.

Section 3780.33. Liabilities and immunities.

(A) The holder of a license, as defined in section 4776.01 of the Revised Code, or other license, certification, or registration issued by any professional board in the state of Ohio, or pursuant to 2923.125 of the Revised Code, are not subject to disciplinary action solely for engaging in professional or occupational activities related to adult use cannabis in accordance with this chapter, for owning or providing professional assistance to prospective or licensed adult use operators, adult use testing laboratories or to other individuals for activity in accordance with this chapter, or for obtaining, possessing, transporting, or using adult use cannabis in accordance with this chapter.

(B) Unless there is clear and convincing evidence that a child is unsafe, the use, possession, or administration of adult use cannabis in accordance with this chapter shall not be the sole or primary basis for any of the following:

(1) An adjudication under section 2151.28 of the Revised Code determining that a child is an abused, neglected, or dependent child;

(2) An allocation of parental rights and responsibilities under section 3109.04 of the Revised Code; or

(3) A parenting time order under section 3109.051 or 3109.12 of the Revised Code.

(C) Notwithstanding any conflicting provision of the Revised Code, the use or possession of adult use cannabis in accordance with this chapter shall not be used as a reason for disqualifying an individual from medical care or from including an individual on a transplant waiting list.

(D) Notwithstanding any conflicting provision of the Revised Code, the use, possession, administration, cultivation, processing, testing, dispensing, transporting, sale, delivery, or transferring of adult use cannabis in accordance with this chapter shall not be used as the sole or primary reason for taking action under any criminal or civil statute.

(E) Notwithstanding any conflicting provision of the Revised Code, when an adult use consumer engages in activities related to adult use cannabis in compliance with this chapter, such activities alone do not constitute sufficient basis for conducting a field sobriety test on the individual or for suspending the individual's driver's license. To conduct any field sobriety test, a law enforcement officer must have an independent, factual basis giving reasonable suspicion that the individual is operating a vehicle under the influence of adult use cannabis or with a prohibited concentration of marijuana in the person's whole blood, blood serum, plasma, breath, or urine.

(F) Notwithstanding any conflicting provision of the Revised Code, an individual's status as an adult use consumer shall not be used as the sole or primary basis for rejecting the individual as a

tenant unless the rejection is required by federal law. Notwithstanding this division, a landlord may prohibit the consumption of cannabis by combustion so long as such prohibition is included in the applicable lease agreement.

(G) Notwithstanding any conflicting provision of the Revised Code, the use or possession of adult use cannabis in accordance with this chapter shall not be used as a reason for disqualifying an individual from a public benefit program administered by any state or local authority, or for otherwise denying an individual a public benefit administered by the state or any locality.

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

(1) Permit the use, possession, cultivation, processing, dispensing, or transportation of adult use cannabis other than as authorized by this chapter;

(2) Permit the cultivation, processing, and dispensing of adult use cannabis by any person unless licensed as an adult use cannabis operator by the division of cannabis control except as authorized under this chapter;

(3) Permit the use, cultivation, dispensing, or processing of adult use cannabis on federal, state, or locally owned land located in the state of Ohio;

(4) Require any public place to accommodate an individual's use of adult use cannabis;

(5) Prohibit any public place from accommodating an individual's use of adult use cannabis; or

(6) Restrict research related to cannabis at a state university, academic medical center, or private research and development organization as part of a research protocol approved by an institutional review board or equivalent entity.

(I) It is the public policy of the state of Ohio that contracts related to adult use cannabis operators and adult use cannabis testing laboratories are enforceable.

Section 3780.34. Financial institutions.

(A) As used in this section:

(1) "Financial institution" means any of the following:

(a) Any bank, trust company, savings and loan association, savings bank, or credit union or any affiliate, agent, or employee of a bank, trust company, savings and loan association, savings bank, or credit union;

(b) Any money transmitter licensed under sections 1315.01 to 1315.18 of the Revised Code or any affiliate, agent, or employee of such a licensee.

(2) "Financial services" means services that a financial institution is authorized to provide under Title XI, sections 1315.01 to 1315.18, or Chapter 1733 of the Revised Code, as applicable, including electronic payments to the extent not in conflict with other state law or federal law.

(B) A financial institution that provides financial services to any adult use cannabis operator, or testing laboratory licensed under this chapter shall be exempt from any criminal law of the state of Ohio an element of which may be proven by substantiating that a financial institution provides financial services to an individual or entity who cultivates, possesses, delivers, processes, or dispenses cannabis or cannabis derived products, including section 2925.05 of the Revised Code and sections 2923.01 and 2923.03 of the Revised Code as those sections apply to violations of Chapter 2925 of the Revised Code, if the adult use consumer, adult use cannabis operator or adult use testing laboratory is in compliance with this chapter and the applicable tax laws of the state of Ohio.

(C)(1) Notwithstanding section 149.43 of the Revised Code or any other public records law to the contrary, upon the request of a financial institution providing services to an adult use cannabis operator or adult use testing laboratory, the division of cannabis control shall provide to the financial institution all of the following information:

(a) Whether an individual or entity with whom the financial institution is seeking to do business is an adult use cannabis operator or adult use testing laboratory licensed under this chapter;

(b) The name of any other business or individual affiliated with the individual or entity;

(c) An unredacted copy of the application for a license under this chapter, and any supporting documentation, that was submitted by the individual or entity;

(d) If applicable, information relating to sales and volume of product sold by the individual or entity, except where prohibited by this chapter;

(e) Whether the individual or entity follows this chapter; and

(f) Any past or pending violation by the individual or entity of this chapter, and any penalty imposed on the individual or entity for such a violation.

(2) The division of cannabis control may charge a financial institution a reasonable fee to cover the administrative cost of providing the information.

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

Section 3780.35. Rights of employer.

(A) Nothing in this chapter does any of the following:

(1) Requires an employer to permit or accommodate an employee's use, possession, or distribution of adult use cannabis otherwise in compliance with this chapter;

(2) Prohibits an employer from refusing to hire, discharging, disciplining, or otherwise taking an adverse employment action against an individual with respect to hire, tenure, terms, conditions, or privileges of employment because of that individual's use, possession, or distribution of cannabis otherwise in compliance with this chapter;

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

(4) Interferes with any federal restrictions on employment, including the regulations adopted by the United States Department of Transportation in Title 49 of the Code of Federal Regulations, as amended;

(5) Permits an individual to commence a cause of action against an employer for refusing to hire, discharging, disciplining, discriminating, retaliating, or otherwise taking an adverse employment action against an individual with respect to hire, tenure, terms, conditions, or privileges of employment related to the individual's use of cannabis; or

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

(B) An individual who is discharged from employment because of that individual's use of cannabis shall be considered to have been discharged for just cause for purposes of division (D) of section 4141.29 of the Revised Code if the individual's use of cannabis was in violation of an employer's drug-free workplace policy, zero-tolerance policy, or other formal program or policy regulating the use of cannabis.

Section 3780.36 Limitations on conduct by individuals.

(A) Except as otherwise provided in this chapter and notwithstanding any conflicting provision of the Revised Code, an adult use consumer, may do the following:

(1) Use adult use cannabis;

(2) Possess, transfer without remuneration to another adult consumer, or transport adult use cannabis, subject to division (B) of this section; and

(3) Purchase adult use cannabis from an adult use dispensary per day in amounts that do not exceed the possession limits set forth in division (B)(1) of this section.

(B) Except as otherwise provided in chapter 3796 of the Revised Code:

(1) The amount of cannabis that may be possessed by an adult use consumer shall not exceed:

(a) Two and one-half ounces of adult use cannabis in any form except adult use extract; and

(b) Fifteen grams of adult use cannabis in the form of adult use extract.

(2) The amount of cannabis that may be transferred by an adult use consumer without remuneration and not advertised or promoted to the public shall not exceed:

(a) Two and one-half ounces of adult use cannabis in any form except adult use extract; and

(b) Fifteen grams of adult use cannabis in the form of adult use extract.

(3) The amount of cannabis that may be transported by an adult use consumer shall not exceed:

(a) Two and one-half ounces of adult use cannabis in any form except adult use extract; and

(b) Fifteen grams of adult use cannabis in the form of adult use extract.

(C) Except as otherwise provided in this chapter, an adult use consumer shall not be subject to arrest, criminal prosecution, or civil penalty for engaging in any of the activities authorized under this chapter, including:

(1) Obtaining, using, possessing, or transporting adult use cannabis;

(2) Performing conduct authorized under section 3780.29 of the Revised Code;

(3) Acquiring, possessing, using, purchasing, manufacturing, selling, or transporting paraphernalia; and

(4) Assisting another adult use consumer, or allowing property to be used, in any of the acts authorized by this chapter.

(D)(1) An individual is prohibited from operating a vehicle, motor vehicle, streetcar, trackless trolley, bike, watercraft, or aircraft while using adult use cannabis or while under the influence of adult use cannabis and is subject to section 4511.19 of the Revised Code for any violation of this division.

(2) An individual is prohibited from smoking, vaporizing, or using any other combustible adult use cannabis product while in a vehicle, motor vehicle, streetcar, trackless trolley, bike, watercraft, or aircraft and is subject to section 4511.19 of the Revised Code for any violation of this division.

(E) Except as otherwise provided in this chapter, no individual under twenty-one years of age shall knowingly show or give false information concerning the individual's name, age, or other identification for the purpose of purchasing adult use cannabis from an adult use dispensary licensed under this chapter.

(F) Nothing in this chapter is intended to permit the transfer or sale of adult use cannabis, with or without remuneration, to an individual under twenty-one years of age, or to allow an individual under twenty-one years of age to purchase, possess, use, process, transport, or cultivate cannabis except where authorized by Chapter 3796 of the Revised Code.

(G) It is unlawful for any parent or guardian to knowingly permit their residence, any other private property under their control, or any vehicle, conveyance, or watercraft under their control to be used by an invitee of the parent's child or the guardian's ward, if the invitee is under twenty-one years of age, in a manner that constitutes a violation of this chapter.

(1) A parent or guardian is deemed to have knowingly permitted their residence, any other private property under their control, or any vehicle, conveyance, or watercraft under their control to be used in violation of this chapter if they knowingly authorize or permit consumption of cannabis by underage invitees.

(2) Where the residence or other property has an owner and a tenant or lessee, the trier of fact may infer that the residence or other property is occupied only by the tenant or lessee.

R.C. 3780.90. Severability.

If any provision of this chapter or its application is held invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Section 3780.99. Penalties.

(A) Except as otherwise provided in Chapter 3796 of the Revised Code, section 2925.11 of the Revised Code shall apply when an adult use consumer possesses an amount of cannabis greater than the limits set forth in division (B)(1) of section 3780.36 of the Revised Code.

(B) Except as otherwise provided in this chapter, an adult use consumer who uses adult use cannabis in public areas, or who violates division (D)(2) of section 3780.36 of the Revised Code as a passenger, is guilty of a minor misdemeanor.

(C)(1) An individual under twenty-one years of age who knowingly shows or gives false information concerning the individual's name, age, or other identification for the purpose of purchasing or otherwise obtaining adult use cannabis from an adult use dispensary licensed under this chapter is guilty of a misdemeanor of the first degree. If, in committing a first violation, the offender presented to an adult use dispensary licensed under this chapter a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than two hundred fifty and not more than one thousand dollars, and may be sentenced to a term of imprisonment of not more than six months.

(2) On a second violation in which, for the second time, the offender presented to an adult use dispensary licensed under this chapter a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than five hundred nor more than one thousand dollars, and may be sentenced to a term of imprisonment of not more than six months. The court also may impose a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(7) of section 4510.02 of the Revised Code. The court, in lieu of suspending the offender's temporary instruction permit, probationary driver's license, or driver's license, instead may order the offender to perform a determinate number of hours of community service, with the court determining the actual number of hours and the nature of the community service the offender shall perform.

(3) On a third or subsequent violation in which, for the third or subsequent time, the offender presented to an adult use dispensary licensed under this Chapter a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than five hundred nor more than one thousand dollars, and may be sentenced to a term of imprisonment of not more than six months. Except as provided in this division, the court also may impose a class six suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(6) of section 4510.02 of the Revised Code, and the court may order that the suspension or denial remain in effect until the offender attains the age of twenty-one years. The court, in lieu of suspending the offender's temporary instruction permit, probationary driver's license, or driver's license, instead may order the offender to perform a determinate number of hours of community service, with the court determining the actual number of hours and the nature of the community service the offender shall perform.

(D) An individual who is under twenty-one years of age and who solicits another individual to purchase adult use cannabis from an adult use dispensary licensed under this chapter is guilty of:

(1) For a first violation, a misdemeanor of the fourth degree; and

(2) For a second or subsequent violation, a misdemeanor of the second degree.

(E) An employee or agent of an adult use dispensary licensed under this chapter who knowingly sells cannabis to an individual under twenty-one years of age is guilty of a misdemeanor of the first degree.

(F) Any individual who violates division (A) of section 3780.10 of the Revised Code, or division (F) of 3780.29 of the Revised Code, is guilty of the illegal trafficking in drugs under section 2925.03 of the Revised Code and the illegal manufacture of drugs under section 2925.04 of the Revised Code.

(G) Any individual who violates divisions (B)(2) or (B)(3) of section 3780.36 of the Revised Code is guilty of the illegal trafficking in drugs under section 2925.03 of the Revised Code.

(H) Any individual who violates division (B) of section 3780.20 of the Revised Code is guilty of illegal dispensing of drug samples under section 2925.36 of the Revised Code.

(I)(1) An individual who violates division (G) of Section 3780.36 of the Revised Code is guilty of:

(a) For a first violation, a misdemeanor of the third degree; and

(b) For a second or subsequent violation, a misdemeanor of the first degree.

(2) If a violation of division (G) of Section 3780.36 of the Revised Code directly or indirectly results in great bodily harm or death to any individual, the individual violating this division is guilty of a felony of the fourth degree.

Chapter 5730 | Adult Use Cannabis Control

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Section 5730.01

Section 5730.01 | Definitions.

Effective: December 1, 2023 **Latest Legislation:** HB 524 (Substitute) - 135th General Assembly **PDF:** Download Authorized PDF

Definitions.

(A) As used in this chapter:

(1) Adult use cannabis, or "cannabis," or "marijuana" means marihuana as defined in section 3719.01 of the Revised Code.

(2) Adult use cannabis operator" means a level I adult use cultivator, a level II adult use cultivator, a level III adult use cultivator, an adult use processor, and an adult use dispensary.

(3) Adult use consumer" means and individual who is at least twenty-one years of age.

(4) Adult use cultivator means a level I adult use cultivator or a level II adult use cultivator.

(5) Adult use dispensary" means a person licensed pursuant section 5730.27 of the Revised Code, this chapter and any rules promulgated thereunder to sell adult use cannabis to adult use consumers.

(6) Adult use extract" or "extract" means a substance obtained by separating or concentrating cannabinoids and other compounds from any part of the adult use cannabis plant by physical or chemical means, intended to be refined for use as an ingredient in an adult use cannabis product or as a standalone adult use cannabis product.

(7) Adult use processor" means a person licensed pursuant section 5730.12 of the Revised Code, this chapter and any rules promulgated thereunder to manufacture adult use cannabis or an adult use product.

(8) Adult use testing laboratory" means an independent laboratory licensed that has been issued a license by the division of cannabis control to have custody of adult use cannabis for research and testing purposes, including but not limited to potency and safety testing or analysis.

(9) Advertising" means any written or verbal statement, illustration, or depiction created to induce sales through the use of a combination of letters, pictures, objects, lighting, or other media or methods, that is not either a label or other inserts. "Advertisement" includes brochures, promotional and other marketing materials consistent with section 5730.21 of the Revised Code.

(10) Applicant" means an individual or person who files an application for a license pursuant to this chapter.

(11) Certificate of operation" means a certificate issued to a person to operate a business located in the state of Ohio or a business of a person to a person pursuant to Chapter 5730 of the Revised Code and Chapter 5730 of the Administrative Code.

(12) Cultivation" means the growing, harvesting, and drying of adult use cannabis for sale pursuant to section 5730.05 of the Revised Code.

(13) Cultivator" means to grow, harvest, package, and transport adult use cannabis pursuant to this chapter.

(14) Cultivation area" means the boundaries of the enclosed areas in which adult use cannabis is cultivated during the vegetative stage and flowering stage of the cultivation process. For purposes of calculating the boundaries of the cultivation area, the cultivation area shall include the entirety of the vegetative stage and flowering plants, clones, or seedlings shall not be included.

(15) Cultivation facility" means a facility in which adult use cultivation or a level III adult use cultivation is authorized to operate.

(16) "Dispensary" means a person who has a certificate of operation to operate a dispensary under Chapter 5730 of the Revised Code and Chapter 5730 of the Administrative Code.

(17) "Disqualifying offense" means:

(a) A conviction or plea of guilty, including conspiracy to commit, attempt to commit, or aiding and abetting another in committing, the following:

(i) Any offense set forth in Chapter 2903, 2905, 2907, 2909, 2913, 2919, 2921, 2923, 2925, 2927, or 2929 of the Revised Code;

(ii) Any theft offense set forth under division (A) of section 2913.02 of the Revised Code, the violation of which constitutes a felony;

(iii) Any violation for which a penalty was imposed under section 5120.05 of the Revised Code;

(iv) A crime of moral turpitude as defined by section 2901.02 of the Revised Code; or

(v) A violation of any law that, at the time of enactment of the law or any amendment of another state, any existing or former law applicable to a military court or Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any of the offenses listed in paragraphs (a)(i) to (a)(iv) of this definition.

(b) Any first degree misdemeanor offense listed in paragraphs (a)(i) to (a)(v) of this definition will not automatically disqualify an applicant from licensure if the applicant was convicted of the offense more than ten years before the date the application for licensure is filed.

(c) Notwithstanding paragraph (a) or (b) of this definition, no misdemeanor offense, including misdemeanors of the first degree, related to cannabis possession, cannabis trafficking, illegal cultivation or the illegal sale or possession of drug paraphernalia or controlling drug paraphernalia, or other controlled substance related crimes shall be considered a disqualifying offense.

(18) "Director" means the director of the department of commerce.

(19) "Level I adult use cultivator" mean either a person who has a certificate of operation as a level I cultivator and who is licensed pursuant to section 5730.12 of the Revised Code, this chapter and any rules promulgated thereunder to cultivate adult use cannabis on a premises which is licensed as a level I cultivation facility and which premises is not larger than ten thousand square feet of canopy. "Level I adult use cultivator" also means a person who is licensed as a level I cultivator and which premises is not larger than ten thousand square feet of canopy designated as the cultivation area in the application which was accepted or renewed by the division of cannabis control.

(20) "Level II adult use cultivator" mean either a person who has a certificate of operation as a level II cultivator and who is licensed pursuant to section 5730.12 of the Revised Code, this chapter and any rules promulgated thereunder to cultivate adult use cannabis on a premises which is licensed as a level II cultivation facility and which premises is larger than ten thousand square feet of canopy but smaller than twenty thousand square feet of canopy designated as the cultivation area in the application which was accepted or renewed by the division of cannabis control.

(21) "Level III adult use cultivator" means either a person who has a certificate of operation as a level III cultivator and who is licensed pursuant to section 5730.12 of the Revised Code, this chapter and any rules promulgated thereunder to cultivate adult use cannabis on a premises which is licensed as a level III cultivation facility and which premises is larger than twenty thousand square feet of canopy designated as the cultivation area in the application which was accepted or renewed by the division of cannabis control.

(22) "Medical marijuana" means marihuana as defined in section 3796.01 of the Revised Code.

(23) "Medical marijuana" means a provisional license issued by either the department of commerce or the state board of pharmacy to a person pursuant to Chapter 5730 of the Revised Code and Chapter 5796 of the Administrative Code.

(24) "Medical marijuana" means a provisional license issued by either the department of commerce or the state board of pharmacy to a person pursuant to Chapter 5730 of the Revised Code and Chapter 5796 of the Administrative Code.

(25) "Medical marijuana" means any cannabinoid other than CBD, THA, Delta 9 THC or Delta 8 THCa, including any isomer, analogue, or derivative thereof, or any combination of any isomer, analogue, or derivative of any cannabinoid other than cannabidiol, or any product or extract that is not a medical marijuana product, and is ingestible or topically applicable.

(26) "Market plan" means an adult use cannabis plan that is cultivated or maintained for the purpose of promoting clients, and that will not be used to produce plants material for sale to an adult use processor or an adult use dispensary unless the plant is transferred into the cultivation area of the facility.

(27) "Prequalification" means any equipment, product, or material that which an entity intends to use, or, in the case of a processor, may use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, marketing, labeling, transporting, destroying, disposing, or dispensing cannabis for the purposes of this chapter.

(28) "Person" includes, but is not limited to, an individual or a combination of individuals, a sole proprietorship, a firm, a company, a joint venture, a partnership of any type, a joint stock company, a corporation, a limited liability company, or any other legal entity, or a limited liability company, or any other business entity or organization, an assignee, a receiver, a trustee in bankruptcy, an unincorporated association, club, society, or other unincorporated entity or organization, or a group of persons acting in concert toward a common goal, regardless of the manner in which the group of persons voluntarily unite that is capable of engaging in business.

(29) "Potency multiple" means the residence of an individual in which the individual's habitation is fixed and to which, whenever the person is absent, the person has the intention of returning.

(30) "Processor" means a person who has been issued a processing certificate of operation pursuant to Chapter 5730 of the Revised Code and Chapter 5730 of the Administrative Code.

(31) "Prohibited facility" means any church, public library, public playground, public park, or school, as defined in section 5730.99 of the Revised Code.

(32) "Provisional license" means a temporary license issued to an applicant for an individual license that establishes the conditions that must be met by the licensee before the individual is issued a license in accordance with the requirements and conditions set forth in chapter 5730 of the Revised Code and the rules promulgated thereunder.

(33) "Tetrahydrocannabinol" or "THC" means the sum of the amount of delta 9 tetrahydrocannabinol (THC) and 87.7 percent of the amount of delta 9 tetrahydrocannabinolic acid (THCA) present in the product or plant material. THC does not include extract concentrates.

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Section 5730.02 | Authorization and purpose.

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Authorization and purpose.

(A) Controlled and regulated sales and use of adult use cannabis shall be permitted under this chapter for the following purposes:

(1) Reducing illegal marijuana sales and providing for a safe and regulated cannabis product;

(2) Limiting the transportation of out of state cannabis into the state;

(3) Providing tax funding to support social equity, job creation, local communities that have adult use cannabis operations, cannabis research, and proper oversight and regulation of the adult cannabis industry; and

(4) Ingesting social equity issues to assist the state's competitive interest in regions and power centers of discrimination and economic disadvantage for individuals in the state.

(B) Adult use cannabis shall only be sold to, or used by, an adult use consumer pursuant to this chapter unless otherwise authorized pursuant to the Revised Code.

(C) Nothing in this chapter shall limit any sale, use, possession, or any other activity authorized by Chapter 5796 of the Revised Code.

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Section 5730.03 | Establishment and authority of division of cannabis control; adoption of rules.

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Establishment and authority of division of cannabis control; adoption of rules.

(A) There is hereby established a division of cannabis control within the department of commerce.

(B) To oversee the proper oversight and control of the adult use cannabis industry, the division of cannabis control shall have the authority to license, regulate, investigate, and penalize adult use cannabis operators, adult use testing laboratories and individuals required to be licensed under this chapter.

(C) The division of cannabis control shall adopt, amend, and rescind rules as necessary to carry out this chapter.

(D) Prevention of practices determined to be the public interest consistent with this chapter, and also ways to educate the public about this chapter.

(E) Establishing applications, licensure and renewal standards and procedures for license applicants or licensee holders related to adult use cannabis operators, adult use testing laboratories, and individuals required to be licensed under this chapter, including reasonable research requirements, the disqualifying offenses under section 5730.01 of the Revised Code prohibit licensure, and zero exemption criteria from licensing requirements for institutional or private investors who are not have significant control or influence over the operation or licensee holder, and the authority to revoke, suspend, or refuse to renew a license.

(F) Establishing reasonable application, licensure and renewal fees amounts to ensure licensee applicants and licensee holders under this chapter pay for the actual costs for administrative and enforcement of this chapter, and the rules promulgated thereunder.

(G) Establishing standards for professional licensure for an individual who is required to be licensed and who has expert circumstances. Such standards for professional licensure must include reference to a professional licensure or certification in good standing or equivalent background check. A professional license shall be valid not longer than three months. A professional license may be renewed, at the division of cannabis control's discretion, for an additional three months. In establishing standards under this section, the division of cannabis control may use all available resources.

(H) Specifying the process and reasons for which a license holder may be fined, suspended either with or without a prior hearing revoked, or not renewed or issued.

(I) The process and requirements for division of cannabis control approval of any equipment change or ownership or transfer of control of an adult use cannabis operator or adult use testing laboratory.

(J) Establishing process and standards for evaluating the size of the cultivation area for a cultivation facility.

(K) Establishing standards and procedures for the testing of adult use cannabis by an adult use testing laboratory licensed under this chapter. When establishing standards and procedures for the testing of cannabis, the division of cannabis control shall do all of the following:

(a) Specify when testing must be conducted;

(b) Determine the minimum amount of adult use cannabis that must be tested;

(c) Specify the manner in which testing is to be conducted so as to offer a consumer uniformity of cannabis products processed for and dispensed, and

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

(L) The minimum amount of insurance or surety bond that must be maintained by an adult use cannabis operator and adult use testing laboratory;

(M) Requiring the division of cannabis control to issue a provisional license upon request by any adult use cannabis operator, and to issue provisional licenses under section 5730.27 of the Revised Code;

(N) Requiring that the records, including financial statements, of an adult use cannabis operator or adult use testing laboratory be maintained in the manner up to two years as prescribed by the division of cannabis control and which shall be made available for inspection upon demand by the division of cannabis control, but shall be treated as confidential under section 5730.31 of the Revised Code;

(O) Prescribing technical standards and requirements consistent with industry standards that must be met for security and surveillance equipment necessary for the protection of security and surveillance of adult use cannabis operations and adult use testing laboratories;

(P) Prescribing requirements for a license holder's protocol of security services for an adult use cannabis operator and adult use testing laboratories which shall include the license holder's system to use armed or unarmed security including through agents of the license holder;

(Q) Prescribing standards according to which a licensee may be permitted to transport adult use cannabis, products, supplies, equipment, and practice, and vehicles, and vessels and aircraft, and to transport, or allow to be transported, by an armed or unarmed security agent of the licensee or licensee's employee or agent, or by a third party, subject to the provisions of section 5730.31 of the Revised Code;

(R) Any person may apply petition to the division of cannabis control requesting that an additional form or method of adult use cannabis be approved. A petition shall be submitted to the division of cannabis control in a manner prescribed by the division of cannabis control.

(S) On receipt of a petition, the division of cannabis control shall determine whether or not to approve the form or method of adult use cannabis described in the petition within sixty days of petition receipt.

(T) The division of cannabis control may adopt rules as necessary to implement this section.

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Section 5730.04 | Electronic database.

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Electronic database.

The division of cannabis control shall establish and maintain an electronic database to monitor all adult use cannabis from seed or clone stages through its cultivation, processing, testing, and dispensing of adult use cannabis and adult use cannabis operators. The division of cannabis control may contract with a separate entity or state agency to establish and maintain all or any part of the electronic database on behalf of the division of cannabis control.

The electronic database shall allow the information to be accessed by the division of cannabis control and adult use testing laboratory licensed under this chapter shall submit to the division of cannabis control any information the division of cannabis control determines is necessary for maintaining the electronic database.

The division of cannabis control, and any entity under contract with the division of cannabis control, shall not make public any information required to or recorded by the division of cannabis control under this section that identifies or would tend to identify any adult use consumer.

Section 5730.06 | Information provided by the department of taxation.

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Information provided by the department of taxation.

(A)(1) Notwithstanding section 149.43 of the Revised Code or any other public records law to the contrary or any law relating to the confidentiality of tax return information, upon the request of the division of cannabis control the department of taxation shall provide to the division of cannabis control all of the following information:

(a) Whether an applicant for license under this chapter holds the appropriate tax laws of this state.

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

(2) The division of cannabis control shall request the information only as it pertains to an application for license that the division of cannabis control is reviewing.

(3) The department of taxation may change the division of cannabis control a reasonable fee to cover the administrative cost of providing the information.

(B) Information received under this section is confidential. Except as otherwise permitted by other state law or federal law, the division of cannabis control shall not make the information available to any person other than the applicant for licensure to whom the information applies.

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Section 5730.07 | Facilities.

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Facilities.

(A) Except as provided in divisions (B), (C), and (D) of this section, an adult use cannabis operator or adult use testing laboratory shall be located within five hundred feet of the real boundaries of a parcel of real estate having situated on it a prohibited facility.

(B) A cultivation or adult use cannabis processing facility may be located within five hundred feet of the real estate which is the adult use cannabis operator or adult use testing laboratory being located within five hundred feet of the boundaries of a prohibited facility, the division of cannabis control shall deny the relocation and the adult use cannabis operator or adult use testing laboratory may apply with the division of cannabis control to request a relocation to a different location.

(C) Division (A) does not apply to:

(1) Current facilities and properties of adult use cannabis operations if the license holder or applicant, or the owners of the license holder or applicant, also has a certificate of operation and a doing business at that same location, or

(2) Research related to adult use cannabis cultivation, processing, or sales, academic medical centers, or private or public research and development organizations as part of a research protocol approved by an institutional review board or equivalent entity, or any other entity as approved by the division of cannabis control.

(D) Upon a local certificate issue or a local authority of a municipal corporation, or the township, or the trustees of the township, or the board of trustees, receiving a license from the division of cannabis control as a level I adult use cultivator or level II adult use cultivator, the license holder may expand its cultivation area and facility as authorized in this chapter notwithstanding any limitations existing from Chapter 5730 of the Revised Code and Chapter 5730 of the Administrative Code.

(E) Upon the division of cannabis control's receipt of a request from an adult use cultivator or level III adult use cultivator for expansion beyond what is authorized in this chapter, the division of cannabis control shall have ninety days to review and approve or deny a request for expansion consistent with division of cannabis control rules.

(F) After the initial approval from the division of cannabis control, an adult use cultivator may request additional area of a portion of the authorized cultivation area, or request a change in the authorized cultivation area, by submitting a request to the division of cannabis control. The division of cannabis control shall review the request and the appropriate square footage for all related cultivation areas and facilities does not exceed the square footage limitation under the licensure authorized under this chapter, a level I adult use cultivator or a level II adult use cultivator who also has, or whose same owner also has, a certification of operation, may only relocate cultivation areas that is above the authorized square footage if the division of cannabis control approves the request.

(G) A level III adult use cultivator's cultivation area shall not exceed five thousand feet within authorized by the division of cannabis control under this chapter.

(H) The division of cannabis control may adopt rules as necessary to implement this section.

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Section 5730.08 | Criminal records checks.

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Criminal records checks.

(A) As used in this section, criminal records check has the same meaning as in section 5502.012 of the Revised Code.

(B) (1) As part of the application process for a license under this chapter, the division of cannabis control shall require each of the following to complete a criminal records check:

(a) An administrator or other person responsible for the daily operation of an adult use cannabis operator or an adult use testing facility seeking a license;

(b) An owner or prospective owner, officer or prospective officer, or board member or prospective board member of an entity seeking license as an adult use cannabis operator or an adult use testing facility or prospective licensee the division of cannabis control approves;

(c) An employee or agent of an adult use cannabis operator or an adult use testing facility required to be licensed under this chapter.

(d) A person subject to the criminal records check requirements does not possess proof of having been a resident of the state for the one-year period immediately prior to the date of the criminal records check, the person shall provide to the division of cannabis control a fingerprint impression sufficient for a criminal identification and investigation has requested information about the person from the federal bureau of investigation or a criminal records check, the division of cannabis control shall request that the person shall provide to the division of cannabis control a fingerprint impression sufficient for a criminal identification and investigation has requested information about the person from the federal bureau of investigation or a criminal records check. Even if a person possesses proof of having been a resident of this state for the one-year period, the division of cannabis control may request that the person shall provide to the division of cannabis control a fingerprint impression sufficient for a criminal records check.

(2) The division of cannabis control shall provide the following to each person who is subject to the criminal records check requirement:

(a) Information about accessing, completing, and forwarding to the superintendent of the bureau of criminal identification and investigation the form prescribed pursuant to division (C)(1) of that section, and information about the standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of that section;

(b) Written notification that the person is required the superintendent to submit the completed report of the criminal records check directly to the division of cannabis control.

(3) Each person who is subject to the criminal records check requirement shall pay to the bureau of criminal identification and investigation the prescribed amount pursuant to division (C) of section 109.572 of the Revised Code, and pay to the bureau of criminal identification and investigation the prescribed amount pursuant to division (D) of that section.

(C) The superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check under section 109.572 of the Revised Code for each person who is required to be licensed under this chapter. The superintendent of the bureau of criminal identification and investigation shall notify the person and the superintendent of the bureau of criminal identification and investigation shall notify the division of cannabis control of the results of the criminal records check. If the person's possession of proof of having been a resident of this state for the one-year period, the division of cannabis control may request that the superintendent of the bureau of criminal identification and investigation shall forward the criminal records check to the division of cannabis control.

(D) The superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check under section 109.572 of the Revised Code. The superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in section 109.572 of the Revised Code. The superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in section 109.572 of the Revised Code. The superintendent of the bureau of criminal identification and investigation shall notify the person who is the subject the requested personally has been convicted of or pleaded guilty to a disqualifying offense as defined in this chapter and as clarified in rules adopted under this chapter.

Last updated December 1, 2023 at 10:01 PM

Section 5730.09 | Location of adult use cannabis operators.

Effective: December 1, 2023 **Latest Legislation:** HB 524 (Substitute) - 135th General Assembly **PDF:** Download Authorized PDF

Location of adult use cannabis operators.

(A) Notwithstanding any provision of Chapter 5730 of the Revised Code or Chapter 5730 of the Administrative Code, an adult use cannabis operator and an adult use testing laboratory licensed under this chapter may not be located within five hundred feet of a parcel of real estate having situated on it a prohibited facility. An adult use cannabis operator or adult use testing laboratory, or the same owner of the adult use cannabis operator or adult use testing laboratory, also have been issued a certificate of operation to operate a medical marijuana dispensary under section 3796.03 of the Revised Code, or the same owner of the adult use cannabis operator or adult use testing laboratory, also have been issued a certificate of operation or medical professional license shall be issued an adult use cannabis operator or adult use testing laboratory license under this chapter and as approved by the division of cannabis control.

(B) Nothing in this section shall limit or affect a certificate of operation or medical professional license shall be issued under this chapter there adult use dispensary licenses or locations designated in a license application, and/or one level I adult use cultivator license for the counties of the location of the level I cultivation facility.

(C) Nothing in this section shall limit or affect a certificate of operation or medical professional license shall be issued under this chapter there adult use dispensary licenses or a location designated in the license application, and/or one level II adult use cultivator license for the counties of the location of the level II cultivation facility.

(D) Nothing in this section shall limit or affect a certificate of operation or medical professional license shall be issued under this chapter there adult use dispensary licenses or a location designated in the license application, and/or one level III adult use cultivator license for the counties of the location of the level III cultivation facility.

(E) Nothing in this section shall limit or affect a certificate of operation or medical professional license shall be issued under this chapter there adult use dispensary licenses or a location designated in the license application, and/or one level III adult use cultivator license for the counties of the location of the level III cultivation facility.

Section 5730.10 | Adult use cannabis operator and adult use testing laboratory licenses.

Effective: December 1, 2023 **Latest Legislation:** HB 524 (Substitute) - 135th General Assembly **PDF:** Download Authorized PDF

Adult use cannabis operator and adult use testing laboratory licenses.

(A) No person shall operate as an adult use cannabis operator or adult use testing laboratory without a license issued pursuant to this chapter.

(B) The following licenses shall be issued by the division of cannabis control within nine months of the effective date of this section if the license applicant is in compliance with section 5730.12 of the Revised Code and the rules promulgated thereunder, and the same owners of the applicant have been issued a certificate of operation or medical professional license issued as of the effective date of this section:

(1) A dispensary license issued to a certificate of operation or medical professional license shall be issued an adult use dispensary license under this chapter for the current location of the dispensary.

(2) A level I cultivator issued a certificate of operation or medical professional license shall be issued under this chapter there adult use dispensary licenses or locations designated in a license application, and/or one level I adult use cultivator license for the counties location of the level I cultivation facility.

(3) A level II cultivator issued a certificate of operation or medical professional license shall be issued under this chapter there adult use dispensary licenses or a location designated in the license application, and/or one level II adult use cultivator license for the counties location of the level II cultivation facility.

(4) A level III cultivator issued a certificate of operation or medical professional license shall be issued under this chapter there adult use dispensary licenses or a location designated in the license application, and/or one level III adult use cultivator license for the counties location of the level III cultivation facility.

(c) a licence issued under a corresponding or similar provision of a law of another jurisdiction that authorizes the operation of a business or a business activity that is equivalent to the licence application of the proposed licence holder to consult and offer to consult with and share such information, and

(d) a government issued certification of operation or medical professional licence shall be issued under this chapter when such proposed licence holder for the control, treatment of the processor, and

(e) is seeking a licence issued a certificate of operation shall be issued under this chapter when such proposed licence holder is seeking a licence issued a certificate of operation for the testing laboratory.

Notwithstanding anything in this section, a licence shall not be issued pursuant to division (B) of this section to a licensee applicant holding only a related medical professional licence unless the medical professional licence holder is issued a certificate of operation within two years of the effective date of this section.

(C) The division of cannabis control shall issue up to forty level III adult use cultivator licenses consistent with this chapter with preference provided to applicants who have been certified as a social equity applicant. Social equity participant under this section shall qualify as a social equity participant under section 3780.01 of this chapter. No person may own ownership or control in more than one level III adult use cultivator license under this chapter. No adult use cultivator or adult use processor licensee may own ownership or control in a level III adult use cultivator license.

(D) The division of cannabis control shall issue up to fifty additional adult use dispensary licenses in conformity with this chapter with preference provided to applicants who have been certified as a social equity applicant under section 3780.01 of the revised code and a social equity and jobs program.

(E) Following twenty four months from the first date of issuance of an adult use operator license, the division of cannabis control shall review the number of adult use cannabis operator licenses issued and may issue additional licenses based on the following:

(1) The current and anticipated market growth and consumer demand, including the number of adult use consumers seeking adult use cannabis.

(2) The current and projected supply of adult use cannabis produced by licensed adult use cultivators, level II adult use cultivators, and adult use processors; and

(3) The geographic distribution of adult use dispensary sites in an effort to ensure adult use customer access to adult use cannabis.

(F)(1) The division of cannabis control shall provide a report and recommendation within ninety days of the conclusion of the requirements in division (E) of this section to the director for consideration.

(2) The division of cannabis control may adopt rules necessary to implement this division.

(G) The division of cannabis control shall issue a licence to an applicant if all of the following conditions are met:

(1) The report of the criminal records check conducted pursuant to section 3780.06 of the Revised Code with respect to the application demonstrates the following:

(a) The criminal offenses for which an applicant will be disqualified from licensure; and

(b) Whether the applicant has been convicted of a criminal offense that the applicant was convicted of or pleaded guilty to the offense more than five years before the date the application for licensure is filed.

(2) The adult use cannabis operator applicant demonstrates that it does not have an ownership or investment interest in or compensation arrangement with any of the following:

(a) An adult use testing laboratory licensed under this chapter; or

(b) An applicant for a licence to conduct adult use laboratory testing.

(3) The adult use cannabis operator applicant demonstrates that it does not share any corporate officers or employees with any of the following:

(a) An adult use testing laboratory licensed under this chapter; or

(b) An applicant for a licence to conduct adult use laboratory testing.

(4) The adult use testing laboratory applicant demonstrates that it does not have an ownership or investment interest in or compensation arrangement with any of the following:

(a) An adult use cannabis operator licensed under this chapter; or

(b) An applicant for a licence to conduct adult use cannabis operations.

(5) The adult use testing laboratory applicant demonstrates that it does not share any corporate officers or employees with any of the following:

(a) An adult use cannabis operator licensed under this chapter; or

(b) An applicant for a licence to conduct adult use cannabis operations.

(6) The applicant demonstrates that the operations will not be located within five hundred feet of a preschool or kindergarten facility consistent with this chapter unless the prohibited facility was located within five hundred feet of the applicant's facility before the date of the application with the division of cannabis control, or after the application, if the applicant owns, uses operating under section 3796 of the Revised Code or the state licensure, or unless otherwise authorized in this chapter.

(7) The information provided to the division of cannabis control in section 3780.06 of the Revised Code demonstrates that the applicant is in compliance with the applicable tax laws of this state.

(8) The applicant owner shall have obtained a certificate of operation established in rules adopted under section 3796.03 of the Revised Code.

(9) The applicant is not employed by a regulatory body of a governmental unit of this state and is that capacity has significant influence or control, as determined by the division of cannabis control, over the adult use cannabis industry in this state.

(2) A licence expires according to the renewal schedule established in rules adopted under section 3796.03 of the Revised Code and may be renewed in accordance with the procedures established in those rules. A licence shall be automatically renewed by the division of cannabis control unless good cause is otherwise shown.

(3) [illegible]

Section 3780.12 - Level I and level II adult use cultivator license

Effective: December 7, 2021 **Latest Legislation:** ENACTSUBSTITUTEOTHER, NEWSECTION, AMENDED, 2021 - Enacted, Amended **PDF:** Download Authenticated PDF

Level I and level II adult use cultivator license.

(A) Notwithstanding anything contrary in the Revised Code and except as provided in division (B) of this section, the holder of a current and valid level I or level II adult use cultivator license issued under this chapter may do either of the following:

(1) Cultivate adult use cannabis;

(2) Distribute, transfer, and sell adult use cannabis to other adult use cannabis operators; and

(3) Acquire seeds, clones, plants, and other genetic material.

(B) A level I or level II adult use cultivator license holder shall not cultivate any adult use cannabis for personal, family, or household use under the license.

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Section 3780.13 - Level III adult use cultivator license.

Effective: December 7, 2021 **Latest Legislation:** ENACTSUBSTITUTEOTHER, NEWSECTION, AMENDED, 2021 - Enacted, Amended **PDF:** Download Authenticated PDF

Level III adult use cultivator license.

(A) Notwithstanding any conflicting provision of the Revised Code, and except as provided in division (B) of this section, the holder of a current and valid level III adult use cultivator license issued under this chapter may do any of the following:

(1) Cultivate adult use cannabis;

(2) Distribute, transfer, and sell adult use cannabis to other adult use cannabis operators; and

(3) Acquire seeds, clones, plants, and other genetic material.

(B) A level III adult use cultivator license holder shall not cultivate any adult use cannabis for personal, family, or household use under the license.

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Section 3780.14 - Adult use processor license.

Effective: December 7, 2021 **Latest Legislation:** ENACTSUBSTITUTEOTHER, NEWSECTION, AMENDED, 2021 - Enacted, Amended **PDF:** Download Authenticated PDF

Adult use processor license.

(A) Notwithstanding any conflicting provision of the Revised Code, the holder of a current and valid adult use processor license issued under this chapter may do any of the following:

(1) Obtain cannabis from adult use cannabis operators;

(2) Subject to the rules adopted pursuant to this section, process adult use cannabis obtained from adult use cannabis operators into a form authorized under this chapter; and

(3) Distribute, transfer, and sell processed adult use cannabis to adult use cannabis operators.

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Section 3780.15 - Adult use dispensary license.

Effective: December 7, 2021 **Latest Legislation:** ENACTSUBSTITUTEOTHER, NEWSECTION, AMENDED, 2021 - Enacted, Amended **PDF:** Download Authenticated PDF

Adult use dispensary license.

(A) Notwithstanding any conflicting provision of the Revised Code, the holder of a current and valid adult use dispensary license issued under this chapter may do the following:

(1) Obtain adult use cannabis from adult use processors, adult use cultivators, level III adult use cultivators, and other adult use dispensaries;

(2) Distribute, transfer, or sell adult use cannabis to adult use cannabis operators;

(3) Provide delivery of adult use cannabis and cannabis paraphernalia to persons as established in rules adopted under section 3796.03 of the Revised Code; and

(4) Dispense or sell adult use cannabis in accordance with division (B) of this section and sell paraphernalia.

(B) When dispensing or selling adult use cannabis, a licensed adult use dispensary shall do all of the following:

(1) Dispense or sell adult use cannabis only to those adult use consumers who present a current, valid identification card demonstrating proof that the adult use consumer is twenty one years of age or older;

(2) Only accept adult use cannabis from a licensed adult use cannabis operator that has been propackaged and labeled in compliance with chapter 3780 of the Revised Code and the rules adopted under section 3796.03 of the Revised Code;

(3) Not dispense or sell adult use cannabis to adult use consumers per day in amounts that exceed the possession limits in 3780.26 (A) of the Revised Code;

(4)Not operating a licensed adult use dispensary, an adult use dispensary shall:

(5) Only use licensed individuals who have met the training requirements established in rules adopted under section 3796.03 of the Revised Code; and

(6) Maintain addition service information materials available at the adult use consumer's request.

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Section 3780.16 - Adult use testing laboratory license.

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Adult use testing laboratory license.

(A) Notwithstanding any conflicting provision of the Revised Code, the holder of a current and valid adult use testing laboratory license issued under this chapter may do both of the following:

(1) Obtain adult use cannabis from one or more adult use cannabis operators licensed under this chapter for testing purposes; and,

(2) Conduct cannabis testing, research and operations in the manner specified in rules adopted under section 3796.03 of the Revised Code.

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Section 3780.17 - Licensees of individuals.

Effective: December 7, 2021 **Latest Legislation:** ENACTSUBSTITUTEOTHER, NEWSECTION, AMENDED, 2021 - Enacted, Amended **PDF:** Download Authenticated PDF

Licensees of individuals.

(A) The division of cannabis control may issue a licence to an individual applicant required to be licensed related to an adult use cannabis operator or adult use testing laboratory operator if the applicant has been certified as a social equity and jobs program participant in accordance with the rules adopted by the division of cannabis control and after the applicant has paid any applicable fees.

(B) To be eligible for a licence, an applicant shall be at least twenty one years of age.

(C) Each application for a licence shall be on a form prescribed by the division of cannabis control and shall contain all information required by the division of cannabis control.

(D) Each applicant shall submit with such application, on a form provided by the division of cannabis control, two sets of the applicant's fingerprints and a photograph as required by the criminal records check section of the division of cannabis control shall shall submit an application for to cover all actual regulatory costs generated by such licensure and background checks.

(E) A licence issued under this section is portable and may be used at any adult use cannabis operator or adult use testing laboratory as long as such licensee is employed with the division of cannabis control for such location where the licensee is seeking to conduct business.

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Section 3780.18 - Prepaid cannabis social equity and jobs program.

Effective: December 7, 2021 **Latest Legislation:** ENACTSUBSTITUTEOTHER, NEWSECTION, AMENDED, 2021 - Enacted, Amended **PDF:** Download Authenticated PDF

Purpose of cannabis social equity and jobs program.

(A) Additional efforts are needed to reduce barriers to ownership and opportunities within the adult use cannabis industry for individuals and communities most adversely impacted by the enforcement of marijuana related laws.

(B) In the interest of establishing an adult cannabis industry that is equitable and accessible to those most adversely impacted by the enforcement of marijuana related laws in this state, the cannabis social equity and jobs program shall establish:

(1) Individuals who have been arrested or incarcerated due to drug laws suffer long-lasting negative consequences, including impacts to employment, business ownership, housing, health, and long-term financial well-being.

(2) Family members, especially children, and communities of those who have been arrested or incarcerated due to drug laws, suffer from emotional, psychological, and financial harm and such harm is intergenerational.

(3) Certain communities have disproportionately suffered the harms of enforcement of marijuana related laws. These communities face greater difficulties accessing traditional banking services and capital investment.

(4) Individuals who have resided in areas of high poverty suffer negative consequences, including barriers to entry in employment, business ownership, housing, health, and long-term financial well-being.

(5) Promotion of business ownership and employment by individuals who have resided in areas of high poverty and high enforcement of marijuana related laws furthers an equitable cannabis industry.

(6) Therefore, in the interest of remedying the harms resulting from the disproportionate enforcement of marijuana related laws, a cannabis social equity and jobs program shall provide financial assistance and license application support to individuals most directly and adversely impacted by the enforcement of marijuana related laws who are interested in assisting or seeking to cannabis business entities.

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Section 3780.19 - Cannabis social equity and jobs program.

Effective: December 7, 2021 **Latest Legislation:** ENACTSUBSTITUTEOTHER, NEWSECTION, AMENDED, 2021 - Enacted, Amended **PDF:** Download Authenticated PDF

Cannabis social equity and jobs program.

(A) As used in this section, "cannabis social equity and jobs program participant" means a person certified as a participant in the cannabis social equity program by the department of development under this section of the revised code.

(B) The department of development shall establish a business assistance program known as the cannabis social equity and jobs program funded by the cannabis social equity and jobs fund. Subject to the rules adopted under section 3796.03 of the Revised Code, the department of development shall:

(1) Establish procedures by which a person may apply for certification under the cannabis social equity and jobs program;

(2) Establish a system of certifying cannabis social equity and jobs program applicants based on a requirement that the business owner or owners show both social and economic disadvantage based on the following, as determined to be sufficient by the department of development:

(a) Wealth of the business seeking certification as well as the personal wealth of the owner or owners of the business.

(b) Social disadvantage based on any of the following factors:

(i) The business owner or owners demonstrate membership in a racial minority group or show personal disadvantage due to color, ethnic origin, gender, physical disability, or long-term residence in an area of high unemployment.

(ii) The owner or owners, or their spouse, child, or parent, have been arrested for, convicted of, or adjudicated delinquent for a marijuana related offense as determined by rule by the department of development prior to the effective date of this section.

(c) Economic disadvantage based on annual income thresholds and eligibility criteria designed to stimulate economic development through license awards to businesses located in qualified census tracts.

(3) Establish standards to determine which cannabis social equity and jobs program participant no longer qualifies for cannabis social equity program certification;

(4) Develop a process for evaluating and addressing goals established by this section to determine what adjustments are necessary to achieve participation goals established by the department of development;

(5) Implement an outreach program to educate potential participants about the cannabis social equity and jobs program;

(6) Implement a system of data collection and analysis to evaluate the cannabis social equity and jobs program participants, as well as an on-site inspection process to validate the qualifications of a cannabis social equity program;

(7) Establish a process for when a business ceases to be a certified cannabis social equity and jobs program participant or a person or entity that does not qualify as a participant in the cannabis social equity and jobs program, which process shall not undermine the policy goals of the program;

(8) Provide financial assistance, loans, grants, and technical assistance to persons certified by the department under the cannabis social equity and jobs program. Financial assistance provided under this section may be used to pay fees to the commission, the cannabis social equity and jobs program fund is not subject to budgetary control, administrative fiscal control, budget, or any other fiscal or budgetary measure that would in any way transfer any amounts from the cannabis social equity and jobs program fund into any other fund of the state.

(9) Encourage employment practices, in which an adult use cannabis operator can demonstrate a plan of action to inform, hire, and educate minorities, women, veterans, and persons with disabilities, engage in fair and equitable business practices.

(10) Study and fund cultural and criminal justice reform including bail, parole, sentencing reform, expungement and sealing of records, legal aid, and community policing and reform.

(11) Study and propose policy reforms to address the social and economic impacts of the enforcement of marijuana laws and to track and promote adequate enforcement.

(12) Fund direct investment in disproportionately impacted communities to enhance education, entrepreneurship, legal aid, youth development, violence prevention, and any other related to the goals of this section.

(13) Utilize the cannabis social equity and jobs fund exclusively for the purposes of this section and for the implementation of this section.

(C) For certified cannabis social equity and job program participants, the division of cannabis control shall waive at least fifty percent of any licenses or application fees associated with a license issued under this chapter.

(D) Any licensee or personal financial enhancement, or trade secrets submitted to a cannabis social equity and jobs program applicant to the department of development pursuant to this section are not public records for the purposes of section 149.43 of the Revised Code, unless the division of cannabis control or department of development is required to present the financial information or trade secrets at a public hearing or public proceeding regarding the applicant's eligibility to participate in the program. In such case the applicant shall disclose any required information.

(E) Any license or other preference to persons certified under the cannabis social equity and jobs program under this section shall be issued or administered in a manner that the preference is needed to address the goals of cannabis social equity and job program under this chapter.

(F) The department of development shall create a cannabis social equity and jobs program advisory group provided through rule in accordance with Chapter 119 of the Revised Code. The advisory group may develop and submit to the department of development as any recommendations related to the cannabis social equity and jobs program under section 3780.19 and 3796.03 of the Revised Code.

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Section 3780.20 - Operations.

Effective: December 7, 2021 **Latest Legislation:** ENACTSUBSTITUTEOTHER, NEWSECTION, AMENDED, 2021 - Enacted, Amended **PDF:** Download Authenticated PDF

Operations.

(A) Adult use cannabis operators and adult use testing laboratories shall adopt operating procedures and comply with operation requirements required by rules under 3796.03 of the Revised Code, which include, but are not limited to, the following as applicable:

(1) Quality assurance;

(2) Package and labeling;

(3) Waste disposal;

(4) Inventory control and storage;

(5) Monitoring, surveillance and security requirements;

(6) Laboratory testing;

(7) Records and reporting requirements;

(8) Hours of operation and procedures when location is closed;

(9) Receipt of adult use cannabis;

(10) Dispensing review requirying and review;

(11) Destruction and disposal of adult cannabis;

(12) Recall procedures, and

(13) Transportation of adult use cannabis.

(B) No adult use cannabis operator may sell or dispense adult use cannabis without immediate unless authorized under rule pursuant to 3796.03 of this chapter.

(C) No adult use cannabis operator may adopt other operation rules or necessary consistent with this chapter.

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Section 3780.21 - Advertising.

Effective: December 7, 2021 **Latest Legislation:** ENACTSUBSTITUTEOTHER, NEWSECTION, AMENDED, 2021 - Enacted, Amended **PDF:** Download Authenticated PDF

Advertising.

(A) The division of cannabis control may adopt rules regulating advertisement of license holders to prevent advertisements that are false, misleading, targeted to minors, promote excessive use, or that promote illegal activity.

(B)An adopted by the division of cannabis control pursuant to section (A) of this chapter shall not require pregnancy and shall not overly burden the legitimate commercial speech of adult use cannabis operators in communicating with adult use consumers. Notwithstanding, the division of cannabis control may adopt narrowly tailored time and place restrictions regarding signage in retail stores.

(C) The division of cannabis control at any time may conduct an audit of license holder's advertisements to ensure it complies with section (A) of this chapter and the rules adopted pursuant to this chapter.

(D) The division of cannabis control may require a license holder to stop using an advertisement if the division of cannabis control finds the license holder violates adopted pursuant to division (A) of this section.

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Section 3780.22 - Tax levied on adult use consumers.

Effective: December 7, 2021 **Latest Legislation:** ENACTSUBSTITUTEOTHER, NEWSECTION, AMENDED, 2021 - Enacted, Amended **PDF:** Download Authenticated PDF

Tax levied on adult use consumers.

(A) For the purpose of supporting social equity issues, providing funds to support jobs and economic development, providing funding for local communities who host adult use dispensaries in their municipal or township limits, support these communities, funding education and treatment for individuals with cannabis and other addiction issues, and defraying the costs of regulation and administering the law, there shall be an adult use tax on the sale of adult use cannabis by adult use dispensaries to adult use consumers in accordance with this section.

(B) The rate of the adult use tax shall be ten per cent. The adult use tax applies and is collectable when the sale is made, regardless of the time when the price is paid or when the adult use cannabis is delivered.

(C) The adult use tax is in addition to the tax levied or collected under Chapter 5739 of the Revised Code on adult use cannabis sales by adult use dispensaries to adult use consumers.

(D) The tax authorized under division (A) shall be collected consistent with Chapter 5739 of the Revised Code, but the tax commissioner shall adopt rules the commissioner considers necessary to carry out this section including the licensure, filing, collection, distribution, refund, assessment, bad debt, liability of separate taxes, recordkeeping, and any penalty related to the adult use tax consistent with this chapter.

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Section 3780.23 - Funds created.

Effective: December 7, 2021 **Latest Legislation:** ENACTSUBSTITUTEOTHER, NEWSECTION, AMENDED, 2021 - Enacted, Amended **PDF:** Download Authenticated PDF

Funds created.

(A) For the purpose of receiving and distributing, and accounting for, revenue received from the adult use tax levied by section 3780.22 of the Revised Code, the following funds are created in the state treasury:

(1) The adult use tax fund;

(2) The cannabis social equity and jobs fund;

(3) The host community cannabis fund;

(4) The substance abuse and addiction fund; and

(5) The division of cannabis control and tax commissioner fund.

(B) All monies collected from the tax levied under this chapter shall be deposited into the adult use tax fund.

(C) Unless otherwise authorized under this chapter, the tax director of budget and management shall transfer amounts to each fund as follows:

(1) Thirty six per cent to the cannabis social equity and jobs fund to be used to implement the requirements of 3780.19 of the Revised Code;

(2) Thirty six per cent to the host community cannabis fund for the benefit of municipal corporations or townships that have adult use dispensaries, and the municipal corporation or township may use such funds for any appropriate purpose. Distributions to municipal corporations or townships shall be based on the percentage of adult use tax attributable to such municipal corporation or township.

(3) Twenty six per cent to the substance abuse and addiction fund to be used for the benefit of the department of mental health and addiction services to alleviate substance and opioid abuse and related research in the state under section 3780.30 of the Revised Code; and

(4) Three per cent to the division of cannabis control and tax commissioner fund to support the operations of the division of cannabis control and to defray the cost of the department of taxation for administering the tax levied under section 3780.22 of the Revised Code.

Payments under of this section shall be made by the end of the month following the end of each quarterly period. The tax commissioner shall make the data available to the director of budget and management for the purpose and the director of budget and management shall make payments to the funds specified in this section pursuant. The tax commission may assess an agency of the municipal corporation or township only for purposes of division (C)(2) of this section.

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Section 3780.24 - Tax administration and enforcement.

Tax administration and enforcement.

The tax commission shall administer and enforce section 3780.22 through 3780.27 of this chapter. In addition to any other powers conferred upon the tax commissioner by law, the tax commissioner may:

(A) Prescribe all forms that are required by this chapter and sections 3780.22 through 3780.27 of this chapter;

(B) Adopt rules that are necessary and proper to carry out section 3780.22 through 3780.27 of this chapter; and

(C) Appoint professional, technical, and clerical employees as are necessary to carry out the tax commissioner's duties under sections 3780.22 through 3780.27 of this chapter.

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Section 3780.25 - Local authority regarding adult use cannabis operators.

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Local authority regarding adult use cannabis operators.

(A) The legislative authority of a municipal corporation may adopt an ordinance, or a board of township trustees may adopt a resolution, by majority vote to prohibit or limit the number of adult use cannabis operators operating within the municipal corporation or within the unincorporated territory of the township.

(B) Except as provided in division (C) of this section, the legislative authority of a municipal corporation or the board of township trustees may adopt an ordinance or resolution, by majority vote, to prohibit the operation of any adult use cannabis operator within the municipal corporation or within the unincorporated territory of the township.

(C) Any ordinance or resolution adopted under division (B) of this section shall not prohibit the operation of a retail adult use cannabis operator if the municipal corporation or township has not prohibited the operation of a medical marijuana dispensary under section 3796.28 of the Revised Code.

(D) Any ordinance or resolution adopted under division (A) or (B) of this section shall be in effect for a period of not more than one year from the date of the ordinance or resolution. Prior to the expiration of the ordinance or resolution, the legislative authority may vote to extend the ordinance or resolution for an additional period of not more than one year. The legislative authority may vote to extend the ordinance or resolution for additional periods of not more than one year at a time.

(E) Ordinances or resolutions adopted under division (A) or (B) of this section shall be in effect for a period of not more than one year from the date of the ordinance or resolution. Prior to the expiration of the ordinance or resolution, the legislative authority may vote to extend the ordinance or resolution for an additional period of not more than one year. The legislative authority may vote to extend the ordinance or resolution for additional periods of not more than one year at a time.

(F) Ordinances or resolutions adopted under division (A) or (B) of this section shall be in effect for a period of not more than one year from the date of the ordinance or resolution. Prior to the expiration of the ordinance or resolution, the legislative authority may vote to extend the ordinance or resolution for an additional period of not more than one year. The legislative authority may vote to extend the ordinance or resolution for additional periods of not more than one year at a time.

(G) Ordinances or resolutions adopted under division (A) or (B) of this section shall be in effect for a period of not more than one year from the date of the ordinance or resolution. Prior to the expiration of the ordinance or resolution, the legislative authority may vote to extend the ordinance or resolution for an additional period of not more than one year. The legislative authority may vote to extend the ordinance or resolution for additional periods of not more than one year at a time.

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(3) Existing cultivations, processors, or dispensaries who have a certificate of operation may not be prohibited or limited by a municipal cooperative or township law regarding under Chapter 3796 of the Revised Code, the operation of a cultivation, processor, or dispensary, or the transfer of ownership or control of the revocation of the certificate of operation.

(4) Adult use cultivators, adult use processors, and adult use dispensaries that are licensed in the same zoning district as a cultivator, processor, or adult use cultivator and adult use processor, who are applicants or license holders under this chapter, and whose owners also have a certificate of operation or the owners that are the affiliates of the owners of the applicant or licensee, are not prohibited or limited by a municipal cooperative or township law or ordinance, adult use cultivator, adult use processor, or adult use dispensary to located with an adult use cultivator and adult use processor under this chapter because of the significant capital investment in the business.

(5) Dispensaries, at the owners of dispensaries, who have a certificate of operation, and who are not co-located on the same parcel or contiguous parcels with a cultivation or processor that has a certificate of operation, as of the effective date of the section, shall be authorized to operate as an adult use dispensary without any municipal or township prohibitions upon receiving a license from the division of cannabis control, unless a majority of the members of the legislative authority of a municipal corporation or the board of trustees of a township or a majority of the electors in a municipal corporation or township, whichever is the lesser and within one hundred and ninety days from licensure, prohibiting the operation of the adult use dispensary within the municipal corporation or within the unincorporated territory of the township, respectively.

(6) If a majority of the members of the legislative authority of a municipal corporation pass an ordinance, or a majority of township trustees in a township pass a resolution, prohibiting the adult use dispensary under Section 3796.29 of the Revised Code, then the adult use dispensary license holder shall cease operations within sixty days, unless the adult use dispensary license holder filles with the board of elections within the sixty day timeframe a petition prescribed by the secretary of state, signed by the electors of the municipal corporation or township. If as part of the qualified electors of the municipal corporation or township, requesting that the issue, of whether the adult use dispensary shall remain open as long as the adult use dispensary is licensed pursuant to Chapter 3796 of the Revised Code and subject to the rules adopted thereunder, or shall be closed, shall be submitted to the electors of the municipal corporation or township, then the adult use dispensary license holder shall cease operations within ninety days after the date of the election, if the majority of the qualified electors in the municipal corporation or township, whichever is applicable, voted in favor of the prohibition, or within ninety days after the date of the election, if the majority of the qualified electors in the municipal corporation or township, whichever is applicable, voted in favor of the prohibition, or within ninety days after the date of the election, if the majority of the qualified electors in the municipal corporation or township, whichever is applicable, voted in favor of the prohibition.

(7) The form of the ballot to be used at the election provided for in division (C) of this section shall be as follows:

"Shall the following adult use dispensary _____ (here insert name of adult use dispensary), whose owners also have been licensed by the adult use dispensary _____ (here insert name of adult use dispensary) to operate a cultivation, processor, or adult use dispensary, be allowed to operate in Chapter 3796 of the Revised Code by the Division of Cannabis Control under the Department of Commerce, and shall the adult use dispensary operations or ownership is eligible to receive from community complete funding?

Yes for the Issue

No for the Issue

(8) If a majority of the voters at the general election vote yes for the issue, then the adult use dispensary may operate within the municipal corporation or township and the municipal corporation or township shall receive related fees commonly collected from licensing authorized under section 3796.07 of the Revised Code.

(9) If a majority of the voters at the general election vote no for the issue, then:

(A) The dispensary with a certificate of operation that has been in continuous operation at its current address, or the dispensary may request to relocate the dispensary within ninety days of election certification consistent with the requirements of Chapter 3796 of the Revised Code, and related rules, which requirements equal the equivalent of the requirements for a dispensary to be established by the board of advisors as long as the relocation request meets all other applicable requirements of Chapter 3796 of the Revised Code and related rules, and

(B) The adult use dispensary license shall be revoked, and the adult use dispensary shall cease operations. The adult use dispensary applies to the division of cannabis control for a request to relocate within ninety days of the election certification, and then the adult use dispensary may continue to operate until the request to relocate is approved by the division of cannabis control. The adult use dispensary shall be authorized and deemed a request to relocate timely once the request to relocate application is in compliance with this chapter and related rules.

(C) A legislative authority of a municipal corporation or township may not prohibit:

(1) Adaptive or enhanced or enrichment learning research related to marijuana conducted at a university, academic medical center, or private research and development organization as part of a research project approved by a research institution or institutions of higher learning;

(2) Growing any tea, hay, or charge on adult use cannabis operations, their owners or their property which is not generally charged on other businesses in the municipal corporation or township;

(3) Prohibiting or limiting hours given otherwise authorized under this chapter; and

(4) Prohibiting or minimizing an activity that is authorized by this chapter.

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Section 3796.26 - Enforcement authority of the division of cannabis control

Effective: November 1, 2021 **Latest Legislation:** Effective 09/27/2021 Sub. House Bill 110 - Enrolled Version **PDF:** Download Substantive PDF

Enforcement authority of the division of cannabis control.

(A) The division of cannabis control shall adopt, or cause to be adopted, all sections of this chapter and the rules adopted thereunder. If the division of cannabis control has information that any provision of this chapter or that any rule adopted thereunder has been violated, it may investigate the matter and take any reasonable action as it considers to be proper.

(B) The division of cannabis control may do any of the following for any owner specified in rules adopted under section 3796.03 of the Revised Code:

(1) Inspect, seal, remove, or prevent breaking upon finding, clear and convincing evidence that contraband distribution of adult use cannabis presents a danger of immediate and serious harm to others, revoke, restrict, or refuse to renew a license issued under this chapter;

(2) Refuse to issue a license unless a license is requested in accordance with this chapter;

(3) Impose a civil penalty in an amount not to exceed ten thousand dollars per violation without prior notice; or

(4) Impose as a preliminary license holder or license holder a civil penalty in an amount to be determined by the division of cannabis control through rules to be issued under the division of cannabis control.

(C) If the division of cannabis control suspends, revokes, or refuses to renew any license issued under this chapter or determines that there is clear and convincing evidence of a danger of immediate and serious harm to an individual, the division of cannabis control may place under seal all adult use cannabis and all other property, including but not limited to, cash, books, and records, on the premises of the licensed entity, and the division of cannabis control may dispose of the adult use cannabis under rules that are adopted by the division of license holders whose off-of the license holders appeal rights under Chapter 119 of the Revised Code. The court involved in such an appeal may order the division of cannabis control, during the pendency of the appeal, to sell cannabis that is perishable and to place the proceeds of the sale of such cannabis in escrow for the benefit of the parties.

(D) The division of cannabis control's enforcement actions under this section shall be taken in accordance with Chapter 119 of the Revised Code.

(E) Nothing in this chapter shall be construed to require the division of cannabis control to enforce minor violations of this chapter if the division of cannabis control determines that the public interest is adequately served by a notice or warning in lieu of prosecution.

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Section 3796.27 - Enforcement by the attorney general.

Effective: November 1, 2021 **Latest Legislation:** Effective 09/27/2021 Sub. House Bill 110 - Enrolled Version **PDF:** Download Substantive PDF

Enforcement by the attorney general.

(A) Upon receiving a written request from the division of cannabis control, the Ohio attorney general may bring a cause of action to restrain a violation of this chapter, but no action to restrain a violation of this chapter shall be brought against the state.

(B) The court of common pleas of Franklin county shall give any claim filed under division (A) of this section priority over all other civil cases before the court, irrespective of position on the docket, and shall cause the case to be heard and determined on the claim expeditiously. A court of general jurisdiction may upon a bona fide order issued in a case brought under division (A) of this section priority over all other civil cases before the court, irrespective of position on the court's docket, and shall cause determination of the matter pending before the court.

(C) Any action filed under division (A) of this section does not preclude an administrative or criminal proceeding on the same facts.

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Section 3796.28 - Enforcement of chapter.

Effective: November 1, 2021 **Latest Legislation:** Effective 09/27/2021 Sub. House Bill 110 - Enrolled Version **PDF:** Download Substantive PDF

Enforcement of chapter.

(A) If the division of cannabis control fails to adopt rules necessary to initially implement this chapter within nine months of the effective date of this chapter, or fails to begin accepting license applications within six months of the effective date of this chapter as provided in section 3796.03 of the Revised Code, any person may file a complaint in the court of common pleas of Franklin county, Ohio to compel the division of cannabis control to perform its duties pursuant to this section.

(B) If the division of cannabis control fails to issue a license to an adult use cannabis operator, or send a notice of denial to an applicant, within three months after receiving a complete adult use cannabis operator application pursuant to section 3796.03 of the Revised Code, the applicant may

(1) Commence an action in the court of common pleas of Franklin county, Ohio to compel the division of cannabis control to perform the actions mandated under this chapter, and

(2) Operate the division of cannabis control can determine in writing that operating pursuant to a license or designed of immediate and serious harm to others, operate under a temporary license, which shall be issued by the division of cannabis control, and in compliance with this chapter, and the division of cannabis control issue a license to the licensee. If the owners, the owner of the applicant, or the applicant's affiliates operate under a temporary license

(a) Is also operating at the application location under a corresponding certificate of operation issued under Chapter 3796 of the Revised Code and Chapter 3796 of the Administrative Code, and

(b) Complies with this chapter and any rules adopted by the division of cannabis control under this chapter.

(C) Nothing in this section shall be construed to authorize the operation of an adult use cannabis operator or a medical marijuana cultivator, processor, or dispensary whose license, certificate of operation, or provisional license has been revoked, or denied, including a suspension, revocation, or denial due to a determination by the division of cannabis control that the applicant or operator has violated this chapter or committed a disqualifying offense.

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Section 3796.29 - Home grow.

Effective: November 1, 2021 **Latest Legislation:** Effective 09/27/2021 Sub. House Bill 110 - Enrolled Version **PDF:** Download Substantive PDF

Home Grow.

(A) Except as otherwise provided in this chapter, and notwithstanding any other provision of the Revised Code, the following acts by an adult use consumer are lawful:

(1) Cultivating, growing, and possessing not more than six cannabis plants at the individual's primary residence, if all of the following apply:

(a) Not more than twelve cannabis plants are cultivated or grown at a single residence where two or more individuals who are at least twenty-one years of age reside at any one time; and

(b) Cultivation or growing of adult use cannabis only takes place within a secured closet, room, greenhouse, or other enclosed area in or on the grounds of the residence that prevents access by individuals who are under the age of 21 and, which is not visible to the general public from a public place.

(2) Possessing by manual or mechanical means adult use cannabis cultivated or grown in accordance with this section; or

(3) Transferring up to six cannabis plants to an adult use consumer as long as the transfer is without remuneration and not advertised or promoted to the public.

(B) An adult use consumer may store at their primary residence adult use cannabis that was purchased from an adult use dispensary licensed under this chapter and cultivated in compliance with this section.

(C) This section does not authorize an individual to:

(1) Cultivate, grow, or process adult use cannabis except at the individual's primary residence;

(2) Permit individuals than twenty-one years of age to cultivate, process, transfer, or transport adult use cannabis;

(3) Process adult use cannabis by hydrocarbon-based extraction; or

(4) Sell, or profit from, adult use cannabis except as specifically authorized in this chapter.

(D) A landlord may prohibit conduct otherwise authorized under division (A) this section so long as such prohibition is included in the applicable lease agreement.

(E) The division of cannabis control shall adopt rules setting forth a schedule of civil penalties that may be applied for violations of this section.

(F) An individual cultivates or grows the individual's cannabis number of cannabis plants permitted under division (A) of the section or transfers cannabis plants in violation of division (A)(3) of the section, division (F) of section 3796.29 of the Revised Code shall apply.

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Section 3796.30 - Cannabis addiction services; toll-free numbers.

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Cannabis addiction services; toll-free numbers.

(A) The division of cannabis control shall enter into an agreement with the department of mental health and addiction services under which the department shall provide a program for cannabis addiction services to be implemented on behalf of the division of cannabis control which includes best practices for education and treatment for individuals with cannabis addiction and for communities or other institutions including schools.

(B) The department of mental health and addiction services shall establish, operate, and publicize an in-state, toll-free telephone number. Only residents may use the toll-free number. The department shall make information about addiction services available to consumers, and operate for an addicted consumer to obtain help. The telephone number shall be staffed twenty-four hours per day, seven days a week in order to respond to inquiries and provide that information. The costs of establishing, operating, and publicizing the telephone number shall be included in the budget for the addiction services division.

(C) The director mental health and addiction services shall prepare an annual report describing the use of the hotel for these purposes. The director shall submit the report to the director of the department of mental health and addiction services, the governor, and minority leader of the house of representatives, the president and minority leader of the senate, and the governor.

(E) Licensee holders provide international resources for patrons related to cannabis addiction issues and services.

(F) Licensee holders shall provide training for their employees regarding the cannabis addiction services resources for patrons related to this section.

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Section 3796.31 - Confidentiality.

Effective: November 1, 2021 **Latest Legislation:** Effective 09/27/2021 Sub. House Bill 110 - Enrolled Version **PDF:** Download Substantive PDF

Confidentiality.

(A) The following information collected, collected, or gathered under this chapter is confidential and shall not be disclosed to any state agency or political subdivision or a public record under section 149.43 of the Revised Code:

(1) Social security numbers, passport numbers, or federal tax identification numbers;

(2) Home addresses and telephone numbers;

(3) Birth certificates;

(4) Driver's license numbers;

(5) Dates of birth;

(6) Places of birth;

(7) The personal financial information and records, including tax returns and information, and records of criminal proceedings;

(8) Any information concerning victims of domestic violence, sexual assault, or stalking;

(9) Electronic mail addresses;

(10) Internet Protocol addresses or similar addresses;

(11) Sale invoice and payments, or transfer records;

(12) Criminal records and adult use consumer identifying information; and

(13) Security information, including risk prevention plans, detection and counteracting, location of vaults or other money and/or cannabis storage areas, emergency management plans, security and surveillance footage and recordings, and other security information and protocols.

(B) Notwithstanding any other law, upon written request, the division of cannabis control shall provide the following information, except as provided in this section:

(1) The amount of sales paid to the state by any licensee holder; and

(2) A copy of a license providing the means for the division of an applicant's licensee, but with confidential information redacted.

(C) An individual who, both, had or has applied for a license under this chapter may waive the confidentiality requirements of division (A) of this section.

(D) Confidential information received by the division of cannabis control from another jurisdiction relating to an individual who holds, held, or has applied for a license under this chapter is confidential and not subject to disclosure as a public record under section 149.43 of the Revised Code.

(E) Not giving reasonable notice to the applicant, the owner or licensee provisional license holder or the owner or licensee license holder, the division of cannabis control may share any information gathered pursuant to this chapter with, or disclose the information to, the inspector general, any appropriate prosecuting authority, any law enforcement agency, any regulatory agency or government of a foreign country, the tax commissioner, or the attorney general. The division of cannabis control shall comply with the same requirements regarding confidentiality required under this law.

(F) The division of cannabis control, and any other state agency, and the division of cannabis control, shall not make public any information reported to or collected by the division of cannabis control under this chapter that identifies or would tend to identify any adult use consumer, or tend to show any adult use consumer's purchase history.

Last updated November 2, 2021 at 1:00 PM

Section 3796.32 - Tetrahydrocannabinol.

Effective: November 1, 2021 **Latest Legislation:** Effective 09/27/2021 Sub. House Bill 110 - Enrolled Version **PDF:** Download Substantive PDF

Tetrahydrocannabinol.

(A) Not an action asserting that this chapter, any portion of this chapter, or any rule adopted thereunder, violates any provision of the Ohio Constitution or federal law shall be brought in the court of common pleas of Franklin county within ninety days after the effective date of the enactment of this chapter or within ninety days after the effective date of any amendment to this chapter, or any rule adopted thereunder.

(B) Any claim asserting that any section in this chapter of the division of cannabis control under this chapter violates any provision of Ohio Constitution or any provision of the Revised Code shall be brought in the court of common pleas of Franklin county within ninety days after the action is taken.

(C) Divisions (A) and (B) of this section do not limit or modify the original jurisdiction of the Supreme Court of Ohio or any court of appeals under Article IV of the Ohio Constitution.

(D) The court of common pleas of Franklin county shall give any claim filed under (A) or (B) of this section priority over all other civil cases before the court, irrespective of position on the court's docket, and shall make a determination on the claim expeditiously. A court of appeals shall give an appeal from a bona fide order issued in a case under division (A) or (B) of this section priority over all other civil cases before the court, irrespective of position on the court's calendar, and shall make a determination on the appeal expeditiously.

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Section 3796.33 - Liabilities and immunities.

Effective: November 1, 2021 **Latest Legislation:** Effective 09/27/2021 Sub. House Bill 110 - Enrolled Version **PDF:** Download Substantive PDF

Liabilities and immunities.

The holder of a license, as defined in section 3796.01 of the Revised Code, or other licensee, certificate, or registration issued by any professional board in the state of Ohio, or licensee in 3796.01 of the Revised Code, or any other licensee, certificate, or registration issued by any professional board or occupational activities related to adult use cannabis in accordance with this chapter, for meeting or providing professional assistance to prospective or licensed adult use consumers, adult use training information to the adult use consumers, or other information or services, or for obtaining, possessing, or transporting adult use cannabis in accordance with this chapter

(B) Unless there is clear and convincing evidence that a child is unsafe, the use, possession, or administration of adult use cannabis in accordance with this chapter shall not be the sole or primary basis for any of the following:

(1) An adjudication under section 2151.03 of the Revised Code determining that a child is an abused, neglected, or dependent child;

(2) An allocation of parental rights and responsibilities under section 3109.04 of the Revised Code; or

(3) A parenting time order under section 3109.051 or 3109.12 of the Revised Code.

(C) Notwithstanding any conflicting provision of the Revised Code, the use or possession of adult use cannabis in accordance with this chapter shall not be used as a reason for disqualifying an individual from being a foster parent, from being a foster caregiver, or from adopting a child.

(D) Notwithstanding any conflicting provision of the Revised Code, the use, possession, administration, cultivation, processing, testing, dispensing, transporting, sale, delivery, or transfering of adult use cannabis in accordance with this chapter shall not be used as the sole or primary reason for taking action under any criminal or civil matter.

(E) Notwithstanding any conflicting provision of the Revised Code, the use or possession of adult use cannabis in accordance with this chapter shall not be used as a reason for disqualifying an individual from a public benefit program administered by any state or local authority, or for otherwise denying an individual a public benefit administered by the state or any political subdivision.

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

(1) Permit the use, possession, cultivation, processing, dispensing, or transportation of adult use cannabis other than as authorized by this chapter;

(2) Interfere the cultivation, processing, and dispensing of adult use cannabis by any person otherwise licensed as an adult use cultivator, processor, or dispensary under the division of cannabis control except as authorized under this chapter;

(3) Permit the use, cultivation, dispensing, or processing of adult use cannabis on federal, state, or locally owned land located in the state of Ohio;

(4) Require any public place to accommodate an individual's use of adult use cannabis;

(5) Prohibit any public place from accommodating an individual's use of adult use cannabis; or

(6) Restrict research related to a state university, academic medical center, or private research and development organization as part of a research protocol approved by an institutional review board or equivalent entity.

(G) It is the public policy of the state of Ohio that contracts related to adult use cannabis operations and adult use cannabis testing laboratories are enforceable.

Last updated November 2, 2021 at 1:00 PM

Section 3796.34 - Financial institutions.

Effective: November 1, 2021 **Latest Legislation:** Effective 09/27/2021 Sub. House Bill 110 - Enrolled Version **PDF:** Download Substantive PDF

Financial institutions.

(A) As used in this section:

(1) "Financial institution" means any of the following:

(a) Any bank, trust company, savings and loan association, savings bank, or credit unions or any affiliates, agent, or employee of a bank, trust company, savings and loan association, savings bank, or credit unions.

(b) Any money transmitter licensed under sections 1315.01 to 1315.14 of the Revised Code or any affiliate, agent, or employee of such a licensee.

(2) "Financial service" means service that a financial institution is permitted to provide under federal law or Chapter 1315.01 to 1315.14 of the Revised Code, or applicable, including electronic payments to the extent not in conflict with other state law or federal law.

(3) Financial institutions that provide financial services to adult use cannabis operators, their employees, and their customers under this chapter shall be exempt from criminal laws of the state of Ohio or elements of which may be proven by substantiating that a financial institution provides financial services to an individual or entity who is engaged in, or aiding and abetting in, the commission of a violation of state law, including section 2925.03 of the Revised Code and sections 2923.01 and 2923.03 of the Revised Code or those sections apply to violations of Chapter 3767 of the Revised Code, if the adult use consumer, adult use cannabis operator is acting in accordance with this chapter and the applicable rules, or otherwise authorized by the state of Ohio.

(C) Notwithstanding section 1349.19 of the Revised Code or any other public records law to the contrary, upon the request of a financial institution providing services to an adult use cannabis operator, the division of cannabis control shall provide to the financial institution a copy of the following information:

(1) Whether an individual is entity with which the financial institution is seeking to do business is an adult use cannabis operator or adult use testing laboratory licensed under this chapter;

(2) The name of any licensee or individual or entity with which the financial institution is seeking to do business;

(3) An unredacted copy of the application for a license under this chapter, and any supporting documentation, that was submitted by the individual or entity;

(4) If applicable, information relating to sales and volume of product sold by the individual or entity, except where prohibited by this chapter;

(5) Whether the individual or entity follows this chapter; and

(6) Any part or pending violations by the individual or entity of this chapter, and any penalty imposed on the individual or entity for such a violation.

(D) The division of cannabis control may change a financial institution a reasonable fee to cover the administrative cost of providing the information.

(E) Information received by a financial institution under division (C) of this section is confidential. Except as otherwise licensed by other state law or federal law, a financial institution shall not share the information received with any unaffiliated third parties, except that it may share the information with its own contractors, auditors, personal representatives, or agents of that contractor.

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Section 3796.35 - Rights of employees.

Effective: November 1, 2021 **Latest Legislation:** Effective 09/27/2021 Sub. House Bill 110 - Enrolled Version **PDF:** Download Substantive PDF

Rights of employees.

(A) Nothing in this chapter does any of the following:

(1) Require an employer to permit or accommodate an employee's use, possession, or distribution of adult use cannabis otherwise in compliance with this chapter;

(2) Prohibits an employer from refusing to hire, discharging, disciplining, or otherwise taking an adverse employment action against an individual with respect to hiring, tenure, terms, conditions, or privileges of employment as the individual's use, possession, or distribution of adult use cannabis otherwise in compliance with this chapter;

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

(4) Interferes with any federal restrictions on employment, including the regulations adopted by the United States Department of Transportation or Title 49 of the Code of Federal Regulations, as amended;

(5) Prevents an individual to commence a cause of action against an employer for refusing to hire, discharging, disciplining, discriminating, retaliating, or otherwise taking an adverse employment action against an individual with respect to hire, tenure, terms, conditions, or privileges of employment related to the individual's use of cannabis; or

(6) Prohibits the authority of the administrator of workers' compensation to grant rebates or discounts or premium rates to employers that participate in a drug-free workplace program established in accordance with rules adopted by the administrator under Section 4123.87 of the Revised Code.

(B) An individual who is discharged from employment because of that individual's use of cannabis shall be considered to have been discharged for just cause for purposes of division (D) of section 4141.29 of the Revised Code if the employer of the employee or of cannabis was in violation of an employer's drug-free workplace policy, zero tolerance policy, or other formal program or policy regarding the use of cannabis.

Last updated November 2, 2021 at 1:00 PM

Section 3796.36 - Limitations on conduct by individuals.

Effective: November 1, 2021 **Latest Legislation:** Effective 09/27/2021 Sub. House Bill 110 - Enrolled Version **PDF:** Download Substantive PDF

Limitations on conduct by individuals.

(A) Except as otherwise provided in this chapter and notwithstanding any conflicting provision of the Revised Code, an adult use consumer, may do the following:

(1) Use adult use cannabis;

(2) Possess, transfer without remuneration to another adult consumer, or transport adult use cannabis, subject to division (E) of this section, and

(3) Purchase adult use cannabis from an adult use dispensary per day in amounts that do not exceed the possession limits set forth in division (B)(1) of this section.

(B) Except as otherwise provided in chapter 3796 of the Revised Code:

(1) The amount of cannabis that may be transferred by an adult use consumer shall not exceed:

(a) Four and one-half ounces of adult use cannabis in any form except adult use extract, and

(b) Fifteen grams of adult use cannabis in the form of adult use extract.

(2) The amount of cannabis that may be transferred by an adult use consumer without remuneration and not advertised or promoted to the public shall not exceed:

(a) Four and one-half ounces of adult use cannabis in any form except adult use extract, and

(b) Fifteen grams of adult use cannabis in the form of adult use extract.

(3) The amount of cannabis that may be transferred by an adult use consumer shall not exceed:

(a) Four and one-half ounces of adult use cannabis in any form except adult use extract, and

(b) Fifteen grams of adult use cannabis in the form of adult use extract.

(C) Except as otherwise provided in this section and in chapter 3796 of the Revised Code, no person shall:

(1) Give adult use cannabis to another adult consumer, or transport adult use cannabis, subject to division (E) of this section, and

(2) Purchase adult use cannabis from an adult use dispensary per day in amounts that do not exceed the possession limits set forth in division (B)(1) of this section.

(D) Except as otherwise provided in chapter 3796 of the Revised Code:

(1) The amount of cannabis that may be transferred to an adult use consumer shall not exceed:

(a) Four and one-half ounces of adult use cannabis in any form except adult use extract, and

(b) Fifteen grams of adult use cannabis in the form of adult use extract.

(2) The amount of cannabis that may be transferred by an adult use consumer without remuneration and not advertised or promoted to the public shall not exceed:

(a) Four and one-half ounces of adult use cannabis in any form except adult use extract, and

(b) Fifteen grams of adult use cannabis in the form of adult use extract.

(3) The amount of cannabis that may be transferred by an adult use consumer shall not exceed:

(a) Four and one-half ounces of adult use cannabis in any form except adult use extract, and

(b) Fifteen grams of adult use cannabis in the form of adult use extract.

(E) Except as otherwise provided in this section and in chapter 3796 of the Revised Code, no person shall:

(1) Give adult use cannabis to another adult consumer, or transport adult use cannabis, subject to division (E) of this section, and

(2) Purchase adult use cannabis from an adult use dispensary per day in amounts that do not exceed the possession limits set forth in division (B)(1) of this section.

(F) Except as otherwise provided in chapter 3796 of the Revised Code:

(1) The amount of cannabis that may be transferred by an adult use consumer shall not exceed:

(a) Four and one-half ounces of adult use cannabis in any form except adult use extract, and

(b) Fifteen grams of adult use cannabis in the form of adult use extract.

(2) The amount of cannabis that may be transferred by an adult use consumer without remuneration and not advertised or promoted to the public shall not exceed:

(a) Four and one-half ounces of adult use cannabis in any form except adult use extract, and

(b) Fifteen grams of adult use cannabis in the form of adult use extract.

(3) The amount of cannabis that may be transferred by an adult use consumer shall not exceed:

(a) Four and one-half ounces of adult use cannabis in any form except adult use extract, and

(b) Fifteen grams of adult use cannabis in the form of adult use extract.

(G) Except as otherwise provided in this section and in chapter 3796 of the Revised Code, no person shall:

(1) Give adult use cannabis to another adult consumer, or transport adult use cannabis, subject to division (E) of this section, and

(2) Purchase adult use cannabis from an adult use dispensary per day in amounts that do not exceed the possession limits set forth in division (B)(1) of this section.

Last updated November 2, 2021 at 1:00 PM

(C) Except as otherwise provided in this chapter, an adult use consumer shall not be subject to arrest, criminal prosecution, or civil penalty for engaging in any of the activities authorized under this chapter, including:

(1) Obtaining, using, possessing, or transporting adult use cannabis;

(2) Performing conduct authorized under section 3780.29 of the Revised Code;

(3) Acquiring, possessing, using, purchasing, manufacturing, selling, or transporting paraphernalia; and

(4) Assisting another adult use consumer, or allowing property to be used, in any of the acts authorized by this chapter.

(D)(1) An individual is prohibited from operating a vehicle, motor vehicle, streetcar, trackless trolley, bike, watercraft, or aircraft while using adult use cannabis or while under the influence of adult use cannabis and is subject to section 4511.19 of the Revised Code for any violation of this division.

(2) An individual is prohibited from smoking, vaporizing, or using any other combustible adult use cannabis product while in a vehicle, motor vehicle, streetcar, trackless trolley, bike, watercraft, or aircraft and is subject to section 4511.19 of the Revised Code for any violation of this division.

(E) Except as otherwise provided in this chapter, no individual under twenty-one years of age shall knowingly show or give false information concerning the individual's name, age, or other identification for the purpose of purchasing adult use cannabis from an adult use dispensary licensed under this chapter.

(F) Nothing in this chapter is intended to permit the transfer or sale of adult use cannabis, with or without remuneration, to an individual under twenty-one years of age, or to allow an individual under twenty-one years of age to purchase, possess, use, process, transport, or cultivate cannabis except where authorized by Chapter 3796 of the Revised Code.

(G) It is unlawful for any parent or guardian to knowingly permit their residence, any other private property under their control, or any vehicle, conveyance, or watercraft under their control to be used by an invitee of the parent's child or the guardian's ward, if the invitee is under twenty-one years of age, in a manner that constitutes a violation of this chapter.

(1) A parent or guardian is deemed to have knowingly permitted their residence, any other private property under their control, or any vehicle, conveyance, or watercraft under their control to be used in violation of this chapter if they knowingly authorize or permit consumption of cannabis by underage invitees.

(2) Where the residence or other property has an owner and a tenant or lessee, the trier of fact may infer that the residence or other property is occupied only by the tenant or lessee.

Last updated November 14, 2023 at 11:12 AM

Section 3780.90 | Severability.

Effective: *December 7, 2023* ***Latest Legislation:*** *ENACTEDBYINITIATIVEPETITION,NOVEMBER7,2023 - General Assembly* ***PDF:*** *Download Authenticated PDF*

Severability.

If any provision of this chapter or its application is held invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Last updated November 13, 2023 at 1:06 PM

Section 3780.99 | Penalties.

Effective: *December 7, 2023* ***Latest Legislation:*** *ENACTEDBYINITIATIVEPETITION,NOVEMBER7,2023 - General Assembly* ***PDF:*** *Download Authenticated PDF*

Penalties.

(A) Except as otherwise provided in Chapter 3796 of the Revised Code, section 2925.11 of the Revised Code shall apply when an adult use consumer possesses an amount of cannabis greater than the limits set forth in division (B)(1) of section 3780.36 of the Revised Code.

(B) Except as otherwise provided in this chapter, an adult use consumer who uses adult use cannabis in public areas, or who violates division (D)(2) of section 3780.36 of the Revised Code as a passenger, is guilty of a minor misdemeanor.

(C)(1) An individual under twenty-one years of age who knowingly shows or gives false information concerning the individual's name, age, or other identification for the purpose of purchasing or otherwise obtaining adult use cannabis from an adult use dispensary licensed under this chapter is guilty of a misdemeanor of the first degree. If, in committing a first violation, the offender presented to an adult use dispensary licensed under this chapter a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than two hundred fifty and not more than one thousand dollars, and may be sentenced to a term of imprisonment of not more than six months.

(2) On a second violation in which, for the second time, the offender presented to an adult use dispensary licensed under this chapter a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than five hundred nor more than one thousand dollars, and may be sentenced to a term of imprisonment of not more than six months. The court also may impose a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(7) of section 4510.02 of the Revised Code. The court, in lieu of suspending the offender's temporary instruction permit, probationary driver's license, or driver's license, instead may order the offender to perform a determinate number of hours of community service, with the court determining the actual number of hours and the nature of the community service the offender shall perform.

(3) On a third or subsequent violation in which, for the third or subsequent time, the offender presented to an adult use dispensary licensed under this Chapter a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than five hundred nor more than one thousand dollars, and may be sentenced to a term of imprisonment of not more than six months. Except as provided in this division, the court also may impose a class six suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(6) of section 4510.02 of the Revised Code, and the court may order that the suspension or denial remain in effect until the offender attains the age of twenty-one years. The court, in lieu of suspending the offender's temporary instruction permit, probationary driver's license, or driver's license, instead may order the offender to perform a determinate number of hours of community service, with the court determining the actual number of hours and the nature of the community service the offender shall perform.

(D) An individual who is under twenty-one years of age and who solicits another individual to purchase adult use cannabis from an adult use dispensary licensed under this chapter is guilty of:

(1) For a first violation, a misdemeanor of the fourth degree; and

(2) For a second or subsequent violation, a misdemeanor of the second degree.

(E) An employee or agent of an adult use dispensary licensed under this chapter who knowingly sells cannabis to an individual under twenty-one years of age is guilty of a misdemeanor of the first degree.

(F) Any individual who violates division (A) of section 3780.10 of the Revised Code, or division (F) of 3780.29 of the Revised Code, is guilty of the illegal trafficking in drugs under section 2925.03 of the Revised Code and the illegal manufacture of drugs under section 2925.04 of the Revised Code.

(G) Any individual who violates divisions (B)(2) or (B)(3) of section 3780.36 of the Revised Code is guilty of the illegal trafficking in drugs under section 2925.03 of the Revised Code.

(H) Any individual who violates division (B) of section 3780.20 of the Revised Code is guilty of illegal dispensing of drug samples under section 2925.36 of the Revised Code.

(I)(1) An individual who violates division (G) of Section 3780.36 of the Revised Code is guilty of:

(a) For a first violation, a misdemeanor of the third degree; and

(b) For a second or subsequent violation, a misdemeanor of the first degree.

(2) If a violation of division (G) of Section 3780.36 of the Revised Code directly or indirectly results in great bodily harm or death to any individual, the individual violating this division is guilty of a felony of the fourth degree.

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The Legislative Service Commission staff updates the Revised Code on an ongoing basis, as it completes its act review of enacted legislation. Updates may be slower during some times of the year, depending on the volume of enacted legislation.

Section 2925.14 | Illegal use or possession of drug paraphernalia.

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Effective: *September 28, 2012* ***Legislation:*** *Senate Bill 337 - 129th General Assembly* ***PDF:*** *Download Authenticated PDF*

(A) As used in this section, "drug paraphernalia" means any equipment, product, or material of any kind that is used by the offender, intended by the offender for use, or designed for use, in propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body, a controlled substance in violation of this chapter. "Drug paraphernalia" includes, but is not limited to, any of the following equipment, products, or materials that are used by the offender, intended by the offender for use, or designed by the offender for use, in any of the following manners:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(D)(1) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Chapters 3719., 4715., 4723., 4729., 4730., 4731., and 4741. of the Revised Code. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by section 3719.172 of the Revised Code.

(2) Division (C)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body marihuana.

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

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

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

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

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

(G) In addition to any other sanction imposed upon an offender for a violation of this section, the court shall suspend for not less than six months or more than five years the offender's driver's or commercial driver's license or permit. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with section 2925.38 of the Revised Code.

Available Versions of this Section

- September 28, 2012 – Senate Bill 337 - 129th General Assembly [View September 28, 2012 Version]
- September 13, 2016 – Senate Bill 204 - 131st General Assembly [View September 13, 2016 Version]
- April 4, 2023 – Amended by Senate Bill 288 - 134th General Assembly [View April 4, 2023 Version]

The Legislative Service Commission staff updates the Revised Code on an ongoing basis, as it completes its art review of enacted legislation. Updates may be slower during some times of the year, depending on the volume of enacted legislation.

Section 2929.13 - Sanction imposed by degree of felony.

Ohio Revised Code - Title 29 Crimes-Procedure - Chapter 2929 Penalties and Sentencing

Effective: April 4, 2023 | ***Latest Legislation:*** *Senate Bill 288 - 134th General Assembly* | ***PDF:*** *Download Authenticated PDF*

(A) Except as provided in division (E), (F), or (G) of this section and unless a specific sanction is required to be imposed or is precluded from being imposed pursuant to law, a court that imposes a sentence upon an offender for a felony may impose any sanction or combination of sanctions on the offender that are provided in sections 2929.14 to 2929.18 of the Revised Code.

If the offender is eligible to be sentenced to community control sanctions, the court shall consider the appropriateness of imposing a financial sanction pursuant to section 2929.18 of the Revised Code or a sanction of community service pursuant to section 2929.17 of the Revised Code as the sole sanction for the offense. Except as otherwise provided in this division, if the court is imposing a mandatory prison term for the offense for which sentence is being imposed, the court also shall impose any financial sanction pursuant to section 2929.18 of the Revised Code that is required for the offense and may impose any other financial sanction pursuant to that section but may not impose any additional sanction or combination of sanctions under section 2929.16 or 2929.17 of the Revised Code.

If the offender is being sentenced for a fourth degree felony OVI offense or for a third degree felony OVI offense, in addition to the mandatory term of local incarceration or the mandatory prison term required for the offense by division (G)(1) or (2) of this section, the court shall impose upon the offender a mandatory fine in accordance with division (B)(4) of section 2929.18 of the Revised Code and may impose whichever of the following is applicable:

(1) For a fourth degree felony OVI offense for which sentence is being imposed under division (G)(1) of this section, an additional community control sanction or combination of community control sanctions under section 2929.16 or 2929.17 of the Revised Code. If the court imposes upon the offender a community control sanction and the offender violates any condition of the community control sanction, the court may take any action prescribed in division (B) of section 2929.15 of the Revised Code relative to the offender, including imposing a prison term on the offender pursuant to that division.

(2) For a third or fourth degree felony OVI offense for which sentence is imposed under division (G)(2) of this section, an additional prison term as described in division (B)(1) of section 2929.14 of the Revised Code or a community control sanction as described in division (G)(2) of this section.

(B)(1)(a) Except as provided in division (B)(1)(b) of this section, if an offender is convicted of or pleads guilty to a felony of the fourth or fifth degree that is not an offense of violence or that is a qualifying assault offense, the court shall sentence the offender to a community control sanction or combination of community control sanctions if all of the following apply:

(i) The offender previously has not been convicted of or pleaded guilty to a felony offense.

(ii) The most serious charge against the offender at the time of sentencing is a felony of the fourth or fifth degree.

(iii) The offender previously has not been convicted of or pleaded guilty to a misdemeanor offense of violence that the offender committed within two years prior to the offense for which sentence is being imposed.

(b) The court has discretion to impose a prison term upon an offender who is convicted of or pleads guilty to a felony of the fourth or fifth degree that is not an offense of violence or that is a qualifying assault offense if any of the following apply:

(i) The offender committed the offense while having a firearm on or about the offender's person or under the offender's control.

(ii) If the offense is a qualifying assault offense, the offender caused serious physical harm to another person while committing the offense, and, if the offense is not a qualifying assault offense, the offender caused physical harm to another person while committing the offense.

(iii) The offender violated a term of the conditions of bond as set by the court.

(iv) The offense is a sex offense that is a fourth or fifth degree felony violation of any provision of Chapter 2907. of the Revised Code.

(v) In committing the offense, the offender attempted to cause or made an actual threat of physical harm to a person with a deadly weapon.

(vi) In committing the offense, the offender attempted to cause or made an actual threat of physical harm to a person, and the offender previously was convicted of an offense that caused physical harm to a person.

(vii) The offender held a public office or position of trust, and the offense related to that office or position; the offender's position obliged the offender to prevent the offense or to bring those committing it to justice; or the offender's misconduct in the offense and the abuse of the offender's position facilitated the offense or was likely to influence the future conduct of others.

(viii) The offender committed the offense for hire or as part of an organized criminal activity.

(ix) The offender at the time of the offense was serving, or the offender previously had served, a prison term.

(x) The offender committed the offense while under a community control sanction, while on probation, or while released from custody on a bond or personal recognizance.

(c) A sentencing court may impose an additional penalty under division (B) of section 2929.15 of the Revised Code upon an offender sentenced to a community control sanction under division (B)(1)(a) of this section if the offender violates the conditions of the community control sanction, violates a law, or leaves the state without the permission of the court or the offender's probation officer.

(2) If division (B)(1) of this section does not apply, except as provided in division (E), (F), or (G) of this section, in determining whether to impose a prison term as a sanction for a felony of the fourth or fifth degree, the sentencing court shall comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code and with section 2929.12 of the Revised Code.

(C) Except as provided in division (D), (E), (F), or (G) of this section, in determining whether to impose a prison term as a sanction for a felony of the third degree or a felony drug offense that is a violation of a provision of Chapter 2925. of the Revised Code and that is specified as being subject to this division for purposes of sentencing, the sentencing court shall comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code and with section 2929.12 of the Revised Code.

(D)(1) Except as provided in division (E) or (F) of this section, for a felony of the first or second degree, for a felony drug offense that is a violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code for which a presumption in favor of a prison term is specified as being applicable, and for a violation of division (A)(1) or (B) of section 2902.06 of the Revised Code for which a presumption in favor of a prison term is specified as being applicable, it is presumed that a prison term is necessary in order to comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code. Division (D)(2) of this section does not apply to a presumption established under this division for a violation of division (A)(4) of section 2902.03 of the Revised Code.

(2) Notwithstanding the presumption established under division (D)(1) of this section for the offenses listed in that division other than a violation of division (A) or (B) of section 2902.06 of the Revised Code, the sentencing court may impose a community control sanction or a combination of community control sanctions instead of a prison term on an offender for a felony of the first or second degree or for a felony drug offense that is a violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code for which a presumption in favor of a prison term is specified as being applicable if it makes both of the following findings:

(a) A community control sanction or a combination of community control sanctions would adequately punish the offender and protect the public from future crime, because the applicable factors under section 2929.12 of the Revised Code indicating a lesser likelihood of recidivism outweigh the applicable factors under that section indicating a greater likelihood of recidivism.

(b) A community control sanction or a combination of community control sanctions would not demean the seriousness of the offense, because one or more factors under section 2929.12 of the Revised Code that indicate that the offender's conduct was less serious than conduct normally constituting the offense are applicable, and they outweigh the applicable factors under that section that indicate that the offender's conduct was more serious than conduct normally constituting the offense.

(E)(1) Except as provided in division (F) of this section, for any drug offense that is a violation of any provision of Chapter 2925. of the Revised Code and that is a felony of the third, fourth, or fifth degree, the applicability of a presumption under division (D) of this section in favor of a prison term or of division (B) or (C) of this section in determining whether to impose a prison term for the offense shall be determined as specified in section 2925.03, 2925.05, 2925.06, 2925.07, 2925.08, 2925.09, 2925.11, 2925.13, 2925.14, 2925.15, 2925.16, 2925.17, 2925.18, or 2925.37 of the Revised Code unless the specified section does not specify that a presumption is applicable regarding the violation.

(2) If an offender who was convicted of or pleaded guilty to a felony violates the conditions of a community control sanction imposed for the offense solely by reason of producing positive results on a drug test, the court, as punishment for the violation of the sanction, shall not order that the offender be imprisoned unless the court determines on the record either of the following:

(a) The offender had been ordered as a sanction for the felony to participate in a drug treatment program, in a drug education program, or in narcotics anonymous or a similar program, and the offender continued to use illegal drugs after a reasonable period of participation in the program.

(b) The imprisonment of the offender for the violation is consistent with the purposes and principles of sentencing set forth in section 2929.11 of the Revised Code.

(3) A court that sentences an offender for a drug abuse offense that is a felony of the third, fourth, or fifth degree may require that the offender be assessed by a properly credentialed professional within a specified period of time. The court shall require the professional to file a written assessment of the offender with the court. If the offender is eligible for a community control sanction and after considering the written assessment, the court may impose a community control sanction that includes addiction services and recovery supports that are a community control sanction or a combination of community control sanctions pursuant to section 2929.16 of the Revised Code. If the court imposes addiction services and recovery supports as a community control sanction, the court shall direct the level and type of addiction services and recovery supports after considering the assessment and recommendation of community addiction services providers.

(F) Notwithstanding divisions (A) to (E) of this section, the court shall impose a prison term or terms under sections 2929.02 to 2929.06, section 2929.14, section 2929.142, or section 2971.03 of the Revised Code and except as provided in section 2929.20 or section 2967.191 of the Revised Code or when part of a term imposed is authorized for the offense under section 2967.13 of the Revised Code notwithstanding the court's discretion under section 2929.20, division (A)(2) or (3) of section 2929.14, or section 2967.191 or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code for any of the following offenses:

(1) Aggravated murder when death is not imposed or murder;

(2) Any rape, regardless of whether force was involved and regardless of the age of the victim, or an attempt to commit rape if, had the offender completed the rape that was attempted, the offender would have been guilty of a violation of division (A)(1)(b) of section 2907.02 of the Revised Code and would be sentenced under section 2971.03 of the Revised Code;

(3) Gross sexual imposition or sexual battery, if the victim is less than thirteen years of age and if any of the following applies:

(a) Regarding gross sexual imposition, the offender previously was convicted of or pleaded guilty to rape, the former offense of felonious sexual penetration, gross sexual imposition, or sexual battery, and the victim of the previous offense was less than thirteen years of age.

(b) The offense was committed on or after August 3, 2006.

(4) A felony violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.13, 2903.15, 2903.21, 2903.22, 2907.07, 2911.01, or 2911.12 of the Revised Code if the offender committed the violation with a firearm.

(5) A first, second, or third degree felony drug offense for which section 2925.03, 2925.05, 2925.06, 2925.07, 2925.08, 2925.09, 2925.11, 2925.13, 2925.14, 2925.15, 2925.16, 2925.17, 2925.18, or 2925.37 of the Revised Code, whichever is applicable regarding the violation, requires the imposition of a mandatory prison term.

(6) Any offense that is a first or second degree felony and that is not set forth in division (F)(1), (2), (3), or (4) of this section, if the offender previously was convicted of or pleaded guilty to aggravated murder, murder, any first or second degree felony, or an offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to one of those offenses.

(7) Any offense that is a third degree felony and either is a violation of section 2905.01 of the Revised Code or an attempt to commit a felony of the second degree that is an offense of violence and involved an attempt to cause serious physical harm to a person or that resulted in serious physical harm to a person if the offender previously was convicted of or pleaded guilty to any of the following offenses:

(a) Aggravated murder, murder, involuntary manslaughter, rape, felonious sexual penetration as it existed under section 2907.12 of the Revised Code prior to September 3, 1996, a felony of the first or second degree that resulted in the death of a person or in physical harm to a person, or complicity in or an attempt to commit any of those offenses;

(b) Any offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to an offense listed in division (F)(7)(a) of this section that resulted in the death of a person or in physical harm to a person.

(8) Any offense, other than a violation of section 2923.12 of the Revised Code, that is a felony, if the offender had a firearm on or about the offender's person or under the offender's control while committing the felony, with respect to a portion of the sentence imposed pursuant to division (B)(1)(a) of section 2929.14 of the Revised Code for having the firearm;

(9) Any offense of violence that is a felony, if the offender wore or carried body armor while committing the felony offense of violence, with respect to the portion of the sentence imposed pursuant to division (B)(1)(d) of section 2929.14 of the Revised Code for wearing or carrying the body armor;

(10) Corrupt activity in violation of section 2923.32 of the Revised Code when the most serious offense in the pattern of corrupt activity that is the basis of the offense is a felony of the first degree;

(11) Any violent sex offense or designated homicide, assault, or kidnapping offense if, in relation to that offense, the offender is adjudicated a sexually violent predator;

(12) A violation of division (A)(1) or (2) of section 2921.36 of the Revised Code, or a violation of division (C) of that section involving an item listed in division (A)(1) or (2) of that section, if the offender is an officer or employee of the department of rehabilitation and correction;

(13) A violation of division (A)(1) or (2) of section 2905.06 of the Revised Code if the victim of the offense is a peace officer, as defined in section 2901.01 of the Revised Code, or an investigator of the bureau of criminal identification and investigation, as defined in section 2900.13 of the Revised Code, with respect to the portion of the sentence imposed pursuant to division (B)(5) of section 2929.14 of the Revised Code;

(14) A violation of division (A)(1) or (2) of section 2903.06 of the Revised Code if the victim of the offense is a peace officer or a member of a municipal police or county sheriff's police department or any police department created pursuant to section 4973.17 of the Revised Code, or three or more violations of any combination of those offenses, with respect to the portion of the sentence imposed pursuant to division (B)(6) of section 2929.14 of the Revised Code;

(15) Kidnapping, in the circumstances specified in section 2905.01 of the Revised Code and when no other provision of division (F) of this section applies;

(16) Kidnapping, abduction, compelling prostitution, promoting prostitution, engaging in a pattern of corrupt activity, a violation of division (A)(1) or (2) of section 2903.04, a violation of division (A)(4) that involves a minor, or endangering children in violation of division (B)(1), (2), (3), (4), or (5) of section 2919.22 of the Revised Code, if the offender is convicted of or pleads guilty to a specification as described in section 2941.1422 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense;

(17) A felony violation of division (A) or (B) of section 2919.24 of the Revised Code if division (D)(3), (4), or (5) of that section, and division (D)(6) of that section, require the imposition of a prison term;

(18) A felony violation of section 2905.11, 2905.12, or 2905.31 of the Revised Code, if the victim of the offense was a woman that the offender knew was pregnant at the time of the violation, with respect to a portion of the sentence imposed pursuant to division (B)(8) of section 2929.14 of the Revised Code;

(19)(a) Any violent felony offense if the offender is a violent career criminal and had a firearm on or about the offender's person or under the offender's control during the commission of the violent felony offense and displayed or brandished the firearm, indicated that the offender possessed a firearm, or used the firearm to facilitate the offense, with respect to the portion of the sentence imposed under division (B)(2) of section 2929.14 of the Revised Code.

(b) As used in division (F)(19)(a) of this section, "violent career criminal" and "violent felony offense" have the same meanings as in section 2923.132 of the Revised Code.

(20) Any violation of division (A)(1) of section 2905.11 of the Revised Code if the offender used an accelerant in committing the violation and the serious physical harm to another or another's unborn caused by the violation resulted in a permanent, serious disfigurement or permanent, substantial incapacity or any violation of division (A)(2) of that section if the offender used an accelerant in committing the violation, the violation caused physical harm to another or another's unborn, and the physical harm resulted in a permanent, serious disfigurement or permanent, substantial incapacity, with respect to a portion of the sentence imposed pursuant to division (B)(9) of section 2929.14 of the Revised Code. The provisions of section and divisions of division (D)(2) of section 2905.11 divisions (B)(9) and (C)(6) of section 2929.14, and section 2941.1423 of the Revised Code shall be known as "Judy's Law."

(21) Any violation of division (A) of section 2905.11 of the Revised Code if the victim of the offense suffered permanent disabling harm as a result of the offense and the victim was under ten years of age at the time of the offense, with respect to a portion of the sentence imposed pursuant to division (B)(10) of section 2929.14 of the Revised Code.

(22) A felony violation of section 2921.05, 2921.06, or 2921.11 of the Revised Code, if the drug involved in the violation is a fentanyl-related compound or a compound, mixture, preparation, or substance containing a fentanyl-related compound and the offender is convicted of or pleads guilty to a specification of the type described in division (B) of section 2941.1418 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, with respect to the portion of the sentence imposed under division (B)(11) of section 2929.14 of the Revised Code.

(G) Notwithstanding divisions (A) to (E) of this section, if an offender is being sentenced for a fourth degree felony OVI offense or for a third degree felony OVI offense, the court shall impose upon the offender a mandatory term of local incarceration in accordance with the following:

(1) If the offender is being sentenced for a fourth degree felony OVI offense and if the offender has not been convicted of and has not pleaded guilty to a specification of the type described in section 2941.1413 of the Revised Code, the court may impose upon the offender a mandatory term of local incarceration of ninty days or one hundred twenty days as specified in division (A)(2) of section 4511.19 of the Revised Code. The court shall not reduce the term pursuant to section 2929.20, division (A)(2) or (3) of section 2967.193, or 2967.194, or any other provision of the Revised Code. The court that imposes a mandatory term of local incarceration under this division shall specify whether the term is to be served in a jail, a community-based correctional facility, a halfway house, or an alternative residential facility, and the offender shall serve the term in the type of facility specified by the court. A mandatory term of local incarceration imposed under division (G)(1) of this section is not subject to any other Revised Code provision that pertains to a prison term except as provided in division (A) (1) of this section.

(2) If the offender is being sentenced for a third degree felony OVI offense, or if the offender is being sentenced for a fourth degree felony OVI offense and the court does not impose a mandatory term of local incarceration under division (G)(1) of this section, the court shall impose upon the offender a mandatory prison term of one, two, three, four, or five years 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 shall impose upon the offender a mandatory prison term of sixty days or one hundred twenty days as specified in division (G)(2) of section 4511.19 of the Revised Code if the offender has not been convicted of and has not pleaded guilty to a specification of that type. The court shall not reduce the term pursuant to section 2929.20, division (A)(2) or (3) of section 2967.193 or 2967.194, or any other provision of the Revised Code. The offender shall serve the one, two, three, four, or five year mandatory prison term or the sixty days or one hundred twenty days mandatory term imposed pursuant to this division consecutively to any other mandatory prison term imposed in relation to the offense. In no case shall an offender who once has been sentenced to a mandatory term of local incarceration under this division shall specify whether the term is to be served in a jail, a community-based correctional facility, a halfway house, or an alternative residential facility, and the offender shall serve the term in the type of facility specified by the court. A mandatory term of local incarceration imposed under division (G)(2) of this section is not subject to any other Revised Code provision that pertains to a prison term except as provided in division (A) (1) of this section.

(3) If the offender is being sentenced for a third degree felony OVI offense, or if the offender is being sentenced for a fourth degree felony OVI offense and the court does not impose a mandatory term of local incarceration under division (G)(1) of this section, the court shall impose upon the offender a mandatory prison term of one, two, three, four, or five years 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 shall impose upon the offender a mandatory prison term of sixty days or one hundred twenty days as specified in division (G)(2) of section 4511.19 of the Revised Code if the offender has not been convicted of and has not pleaded guilty to a specification of that type. The court shall not reduce the term pursuant to section 2929.20, division (A)(2) or (3) of section 2967.193 or 2967.194, or any other provision of the Revised Code. The offender shall serve the one, two, three, four, or five year mandatory prison term or the sixty days or one hundred twenty days mandatory term imposed pursuant to this division consecutively to and in the manner prescribed for the prison term imposed in relation to the offense. In no case shall an offender who once has been sentenced to a mandatory term of local incarceration under this division shall specify whether the term is to be served in a jail, a community-based correctional facility, a halfway house, or an alternative residential facility, and the offender shall serve the term in the type of facility specified by the court. A mandatory term of local incarceration imposed under division (G)(3) of this section is not subject to any other Revised Code provision that pertains to a prison term except as provided in division (A) (1) of this section.

(H)(1) Except as provided in division (E)(2) of this section, when considering sentencing factors under this section in relation to an offender who is convicted of or pleads guilty to an attempt to commit an offense in violation of section 2923.02 of the Revised Code, the sentencing court shall consider the factors applicable to the felony category of the violation of section 2923.02 of the Revised Code that would apply to the offense that the offender intended to commit if the offender is indicted, the court of complicate shall be posted by the crime victim organizations fund.

(2) When considering sentencing factors under this section in relation to an offender who is convicted of or pleads guilty to an attempt to commit a drug abuse offense for which the penalty is determined by the amount or number of unit doses of the controlled substance involved in the drug abuse offense, the sentencing court shall consider the factors applicable to the felony category that the drug abuse offense attempted would be if that drug abuse offense had been committed and had involved an amount or number of unit doses of the controlled substance that is within the next lower range of controlled substance amounts than was involved in the attempt.

(K) As used in this section:

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

(2) "Drug abuse offense" has the same meaning as in section 2925.01 of the Revised Code.

(3) "Minor drug possession offense" has the same meaning as in section 2925.11 of the Revised Code.

(4) "Qualifying assault offense" means a violation of section 2903.13 of the Revised Code for which the penalty provision in division (C)(4)(b) or (C)(4)(c) of that section applies.

(L) At the time of sentencing an offender for any sexually oriented offense, if the offender is a tier III sex offender/child-victim offender relative to that offense and the offender does not serve a prison term or jail term, the court may require that the offender be monitored by means of a global positioning device. If the court requires such monitoring, the cost of monitoring shall be borne by the offender. If the offender is indigent, the cost of compliance shall be paid by the crime victim reparations fund.

Last updated January 25, 2022 at 10:11 AM

Available Versions of this Section

- September 29, 2015 – House Bill 59 - 130th General Assembly | View September 29, 2015 Version |
- September 29, 2015 – House Bill 64 - 131st General Assembly | View September 29, 2015 Version |
- September 15, 2016 – House Bill 138, House Bill 66, Senate Bill 97 - 131st General Assembly | View September 15, 2016 Version |
- July 1, 2017 – Senate Bill 519 - 131st General Assembly | View July 1, 2017 Version |
- October 17, 2017 – Amended by Senate Bill 1, Senate Bill 201, House Bill 65, Senate Bill 65, Senate Bill 20 - 132nd General Assembly | View October 17, 2017 Version |
- October 17, 2019 – Amended by House Bill 166 - 133rd General Assembly | View October 17, 2019 Version |
- April 4, 2023 – Amended by Senate Bill 288 - 134th General Assembly | View April 4, 2023 Version |

The Legislative Service Commission staff updates the Revised Code on an ongoing basis, as it completes its act review of enacted legislation. Updates may be slower during some times of the year, depending on the volume of enacted legislation.

Section 2929.22 | Determining appropriate sentence for misdemeanors.

Effective: *April 6, 2023* ***Latest Legislation:*** *House Bill 343 - 134th General Assembly* ***PDF:*** *Download Authenticated PDF*

(A) Unless a mandatory jail term is required to be imposed by division (G) of section 1547.99, division (B) of section 4510.14, division (G) of section 4511.19 of the Revised Code, or any other provision of the Revised Code a court that imposes a sentence under this chapter upon an offender for a misdemeanor or minor misdemeanor has discretion to determine the most effective way to achieve the purposes and principles of sentencing set forth in section 2929.21 of the Revised Code.

Unless a specific sanction is required to be imposed or is precluded from being imposed by the section setting forth an offense or the penalty for an offense or by any provision of sections 2929.23 to 2929.28 of the Revised Code, a court that imposes a sentence upon an offender for a misdemeanor may impose on the offender any sanction or combination of sanctions under sections 2929.24 to 2929.28 of the Revised Code. The court shall not impose a sentence that imposes an unnecessary burden on local government resources.

(B)(1) In determining the appropriate sentence for a misdemeanor, the court shall consider all of the following factors:

(a) The nature and circumstances of the offense or offenses;

(b) Whether the circumstances regarding the offender and the offense or offenses indicate that the offender has a history of persistent criminal activity and that the offender's character and condition reveal a substantial risk that the offender will commit another offense;

(c) Whether the circumstances regarding the offender and the offense or offenses indicate that the offender's history, character, and condition reveal a substantial risk that the offender will be a danger to others and that the offender's conduct has been characterized by a pattern of repetitive, compulsive, or aggressive behavior with heedless indifference to the consequences;

(d) Whether the victim's youth, age, disability, or other factor made the victim particularly vulnerable to the offense or made the impact of the offense more serious;

(e) Whether the offender is likely to commit future crimes in general, in addition to the circumstances described in divisions (B)(1)(b) and (c) of this section;

(f) Whether the offender has an emotional, mental, or physical condition that is traceable to the offender's service in the armed forces of the United States and that was a contributing factor in the offender's commission of the offense or offenses;

(g) The offender's military service record.

(2) In determining the appropriate sentence for a misdemeanor, in addition to complying with division (B)(1) of this section, the court may consider any other factors that are relevant to achieving the purposes and principles of sentencing set forth in section 2929.21 of the Revised Code.

(C) Before imposing a jail term as a sentence for a misdemeanor, a court shall consider the appropriateness of imposing a community control sanction or a combination of community control sanctions under sections 2929.25, 2929.26, 2929.27, and 2929.28 of the Revised Code. A court may impose the longest jail term authorized under section 2929.24 of the Revised Code only upon offenders who commit the worst forms of the offense or upon offenders whose conduct and response to prior sanctions for prior offenses demonstrate that the imposition of the longest jail term is necessary to deter the offender from committing a future criminal offense.

(D)(1) A sentencing court shall consider any relevant oral and written statement made by the victim, the victim's representative, the victim's attorney, if applicable, the defendant, the defense attorney, and the prosecuting authority regarding sentencing for a misdemeanor. This division does not create any rights to notice other than those rights authorized by Chapter 2930. of the Revised Code.

(2) At the time of sentencing for a misdemeanor or as soon as possible after sentencing, the court shall notify the victim of the offense of the victim's right to file an application for an award of reparations pursuant to sections 2743.51 to 2743.72 of the Revised Code.

Last updated February 7, 2023 at 3:52 PM

Available Versions of this Section

- March 22, 2013 – House Bill 197 - 129th General Assembly [View March 22, 2013 Version]
- April 6, 2023 – Amended by House Bill 343 - 134th General Assembly [View April 6, 2023 Version]

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Section 2929.14 - Definite prison terms.

Click here to report a minor formatting error of this section that is not an error.

Effective date: June 12, 2006 - Amended Sub. H.B. 138 (Current version) PDF: Download Acrobat Reader

(A) Except as provided in division (B)(1), (B)(2), (B)(3), (B)(4), (B)(5), (B)(6), (B)(7), (B)(8), (B)(9), (B)(10), (B)(11), or (B)(12) of this section or in division (D)(1) or (D)(2)(a) of section 2929.13 and except as otherwise authorized or required by division (B) of section 2929.41 or by sections 2929.142 to 2929.146 of the Revised Code, if a court imposes a prison term upon a person who is convicted of a felony, the court shall impose a definite prison term that shall be one of the following:

(1) For a felony of the first degree, a prison term of one, two, three, four, five, six, seven, eight, or nine years and a maximum term that is determined pursuant to section 2929.144 of the Revised Code, except that if the court imposes a prison term upon a person who is convicted of a felony of the first degree committed while the person was a juvenile, the specific language of that section shall pertain to determining the minimum term or otherwise sentencing the offender for the minimum term or sentence imposed upon the person for the felony of the first degree committed while the person was a juvenile, and except that if a life tax imposed under section 5747.02 of the Revised Code is in effect, the court may impose upon the offender for the felony a maximum prison term determined as provided in section 2929.144 of the Revised Code, except that if the statute that criminalizes the conduct constituting the felony specifies a different maximum term or penalty for the offense, the specific language of that statute shall pertain to determining the maximum term or otherwise sentencing the offender for the maximum term or sentence imposed upon the person for the felony of the first degree and except that if a life tax imposed under section 5747.02 of the Revised Code is in effect, the maximum term or sentence imposed upon the person for the felony of the first degree shall be a term or sentence of life imprisonment.

(2) For a felony of the second degree committed prior to March 22, 2019, the prison term shall be a definite prison term of one, two, three, four, five, six, or eight years.

(3) For a felony of the second degree that is a violation of section 2903.06, 2903.08, 2905.01, 2905.02, 2905.32, 2907.02, 2907.03, 2907.05, or 2907.06 or that is a violation of section 2903.04 or 2903.11 regarding a person who was a pregnant woman at the time of the commission of the offense, the prison term shall be a definite term of one, two, three, four, five, six, or eight years. If the offender is being sentenced for a violation of section 2903.04 or 2903.11 regarding a pregnant woman and if the offender previously has been convicted of a violation of section 2903.04 or 2903.11 regarding a pregnant woman or of section 2903.06, 2903.08, 2905.01, 2905.02, 2905.32, 2907.02, 2907.03, 2907.05, or 2907.06 or of a substantially similar municipal ordinance, the prison term shall be a definite term of one, two, three, four, five, six, or eight years.

(4) For a felony of the second degree not punishable by division (A)(3) of this section, if an offender who is convicted of or pleads guilty to a felony also is convicted of or pleads guilty to a specification of the type described in division (A) of section 2941.142 of the Revised Code that charges the offender with committing the felony while participating in a criminal gang, the prison term shall be a definite term of one, two, three, four, five, six, or eight years.

(5) For a felony of the second degree not punishable by division (A)(3) of this section, if an offender who is convicted of or pleads guilty to a specification of the type described in division (B) of section 2941.142 of the Revised Code that charges the offender with committing the felony while participating in a criminal gang, the prison term shall be a definite term of one, two, three, four, five, six, or eight years.

(6) For a felony of the second degree not punishable by division (A)(3) of this section, if an offender who is convicted of or pleads guilty to a specification of the type described in division (C) of section 2941.142 of the Revised Code that charges the offender with committing the felony while participating in a criminal gang, the prison term shall be a definite term of one, two, three, four, five, six, or eight years.

(7) For a felony of the second degree not punishable by division (A)(3) of this section, if an offender who is convicted of or pleads guilty to a specification of the type described in division (D) of section 2941.142 of the Revised Code that charges the offender with committing the felony while participating in a criminal gang, the prison term shall be a definite term of one, two, three, four, five, six, or eight years.

(8) For a felony of the third degree that is a violation of section 2907.03 or 2907.05 or that is a violation of section 2903.11 regarding a person who was a pregnant woman at the time of the commission of the offense, the prison term shall be a definite term of one, two, three, four, or five years.

(9) For a felony of the third degree, the prison term shall be a definite term of six, seven, eight, nine, ten, eleven, or twelve months.

(10) For a felony of the fourth degree, the prison term shall be a definite term of six, seven, eight, nine, ten, eleven, or twelve months.

(11) For a felony of the fifth degree, the prison term shall be a definite term of six, seven, eight, nine, ten, eleven, or twelve months.

(B) Except as provided in division (B)(1), (B)(2), (B)(3), (B)(4), (B)(5), (B)(6), (B)(7), (B)(8), (B)(9), (B)(10), (B)(11), or (B)(12) of this section, or in division (D)(1) or (D)(2)(a) of section 2929.13 and except as otherwise authorized or required by division (B) of section 2929.41 or by sections 2929.142 to 2929.146 of the Revised Code, if a court imposes a prison term upon a person who is convicted of a felony, the court shall impose a prison term that is not less than the applicable minimum term nor more than the applicable maximum term described in division (A) of this section. If a court imposes a prison term upon a person who is convicted of a felony under this section, the court may impose the longest prison term or shorter prison term authorized by the offense, subject to division (C) of this section. In imposing a prison term for a felony of the second degree under this division, the court shall impose a prison term that is not less than two years nor more than eight years. In imposing a prison term for a felony of the third degree, except that the offense which

(1) Except as provided in division (B)(2) of this section, if an offender who is convicted of or pleads guilty to a violation of section 2921.331 or the Revised Code is a felony in the first degree, or is convicted of or pleads guilty to a violation of division (B)(2) of section 2921.331 of the Revised Code that is a felony in the second degree, the court shall sentence the offender to a prison term or term of imprisonment of one hundred twenty months. If a court imposes a prison term or term of imprisonment upon an offender for a violation of section 2921.331 or division (B)(2) of section 2921.331 of the Revised Code, the offender shall serve the entire prison term or term of imprisonment so imposed by the sentencing court. Notwithstanding the foregoing, indicating that the offender possessed the firearm, or using the firearm to facilitate the offense and that the offender permitted his or her employee to possess or use the firearm in the commission of the offense, if the firearm is a firearm that is owned or possessed by the offender's employer and the offender's possessing or using the firearm in the commission of the offense is a violation of the terms and conditions of the offender's employment as a security officer, or indicating that the offender possessed the firearm, or using the firearm to facilitate the offense, if the firearm is a firearm that is owned or possessed by a law enforcement officer who is employed as a security officer and the offender's possessing or using the firearm in the commission of the offense is a violation of the terms and conditions of the offender's employment as a security officer, in

(2) A prison term of three years if the specification is of the type described in division (A) of section 2941.141 of the Revised Code that charges the offender with committing the offense by discharging a firearm from a motor vehicle, or if the specification is of the type described in division (A) of section 2941.145 of the Revised Code that charges the offender with committing the offense by discharging a firearm at a peace officer, and the offender's conduct with regard to the specification and the offense shows that the offender acted with deliberate ignorance of the fact that the offender knew or had reason to believe that the offender was firing a firearm in the direction of a person or persons who is or are close enough to be within the offender's range of fire and that the offender's conduct with regard to the specification and the offense shows that the offender acted with heedless indifference to the fact that the offender's conduct has no purpose to confer any benefit on the offender or another person or to promote any purpose of the offender or another person, or

(3) A prison term of one year if the specification is of the type described in division (A) of section 2941.141 of the Revised Code that charges the offender with committing the offense by discharging a firearm from a motor vehicle or another offense for which there is a specification of the type described in division (A) of section 2941.141 of the Revised Code that charges the offender with committing the offense by discharging a firearm from a motor vehicle, or if the specification is of the type described in division (A) of section 2941.145 of the Revised Code that charges the offender with committing the offense by discharging a firearm at a peace officer or another offense for which there is a specification of the type described in division (A) of section 2941.145 of the Revised Code that charges the offender with committing the offense by discharging a firearm at a peace officer, and the offender's conduct with regard to the specification and the offense shows that the offender acted with deliberate ignorance of the fact that the offender knew or had reason to believe that the offender was firing a firearm in the direction of a person or persons who is or are close enough to be within the offender's range of fire and that the offender's conduct with regard to the specification and the offense shows that the offender acted with heedless indifference to the fact that the offender's conduct has no purpose to confer any benefit on the offender or another person or to promote any purpose of the offender or another person.

(C) A court shall not impose more than one prison term or other term of imprisonment for a violation of section 2921.331 or this section for felonies committed as part of the same act or transaction.

(D) Except as provided in division (B)(2) of this section, if an offender who is convicted of or pleads guilty to a violation of section 2921.331 or the Revised Code is a felony in the first degree, or is convicted of or pleads guilty to a violation of division (B)(2) of section 2921.331 of the Revised Code that is a felony in the second degree, the court shall impose a prison term or term of imprisonment of one hundred twenty months. If a court imposes a prison term or term of imprisonment upon an offender for a violation of section 2921.331 or division (B)(2) of section 2921.331 of the Revised Code, the offender shall serve the entire prison term or term of imprisonment so imposed by the sentencing court. Notwithstanding the foregoing, indicating that the offender possessed the firearm, or using the firearm to facilitate the offense and that the offender permitted his or her employee to possess or use the firearm in the commission of the offense, if the firearm is a firearm that is owned or possessed by the offender's employer and the offender's possessing or using the firearm in the commission of the offense is a violation of the terms and conditions of the offender's employment as a security officer, or indicating that the offender possessed the firearm, or using the firearm to facilitate the offense, if the firearm is a firearm that is owned or possessed by a law enforcement officer who is employed as a security officer and the offender's possessing or using the firearm in the commission of the offense is a violation of the terms and conditions of the offender's employment as a security officer, in

(E) A court shall not impose more than one prison term or other term of imprisonment for a violation of section 2921.331 or this section for felonies committed as part of the same act or transaction. If a court imposes a prison term or term of imprisonment upon an offender for a violation of section 2921.331 or this section for a felony committed as part of the same act or transaction, the court may impose a prison term or term of imprisonment for any other violation or offense arising out of the same act or transaction.

(F) Except as provided in division (B)(2) of this section, if an offender who is convicted of or pleads guilty to a violation of section 2921.331 or the Revised Code is a felony in the first degree, or is convicted of or pleads guilty to a violation of division (B)(2) of section 2921.331 of the Revised Code that is a felony in the second degree, the court shall impose a prison term or term of imprisonment of one hundred twenty months. If a court imposes a prison term or term of imprisonment upon an offender for a violation of section 2921.331 or division (B)(2) of section 2921.331 of the Revised Code, the offender shall serve the entire prison term or term of imprisonment so imposed by the sentencing court. Notwithstanding the foregoing, indicating that the offender possessed the firearm, or using the firearm to facilitate the offense and that the offender permitted his or her employee to possess or use the firearm in the commission of the offense, if the firearm is a firearm that is owned or possessed by the offender's employer and the offender's possessing or using the firearm in the commission of the offense is a violation of the terms and conditions of the offender's employment as a security officer, or indicating that the offender possessed the firearm, or using the firearm to facilitate the offense, if the firearm is a firearm that is owned or possessed by a law enforcement officer who is employed as a security officer and the offender's possessing or using the firearm in the commission of the offense is a violation of the terms and conditions of the offender's employment as a security officer, in

(G) If an offender who is convicted of or pleads guilty to a violation of section 2921.331 or this section is sentenced to a prison term or term of imprisonment for a violation of section 2921.331 or this section, in addition to the prison term or term of imprisonment for any other violation or offense arising out of the same act or transaction, the court shall impose a prison term under division (B)(2) of this section to the extent allowed by that division. If the prison term imposed upon the offender for the violation or offense arising out of the same act or transaction is a prison term or term of imprisonment that is shorter than the prison term or term of imprisonment that the court may impose upon the offender for the violation of section 2921.331 or this section, the court shall impose a prison term under division (B)(2) of this section for the remainder of the six, seven, or eight years that the court may impose upon the offender for the violation of section 2921.331 or this section. The prison term or term of imprisonment so imposed by the court under division (B)(2) of this section for the remainder of the six, seven, or eight years that the court may impose upon the offender for the violation of section 2921.331 or this section shall be in addition to the prison term or term of imprisonment for any other violation or offense arising out of the same act or transaction.

(H)(1) Except as provided in division (H)(2) of this section, if an offender who is convicted of or pleads guilty to a violation of section 2925.03 or 2925.11 or a violation of section 2925.05 or 2925.06 that is a felony of the first or second degree and that is committed while the offender was a juvenile offender transferred to the adult court or to a serious youthful offender dispositional sentence under section 2152.10 or 2152.13 or a violation of section 2925.03 or 2925.11 that is a felony of the third or fourth degree that is committed while the offender was a juvenile offender transferred to the adult court or to a serious youthful offender dispositional sentence under section 2152.10 or 2152.13 if the offender also is convicted or is adjudicated guilty of a specification of the type described in section 2941.145 of the Revised Code that charges the offender with committing the offense while possessing a firearm, the court shall impose a prison term or term of imprisonment upon the offender for the violation of section 2925.03, 2925.05, 2925.06, 2925.11, or 2925.03 or 2925.11 that is described in this division that is in addition to any other prison term or term of imprisonment imposed upon the offender for the violation of section 2925.03, 2925.05, 2925.06, 2925.11, or 2925.03 or 2925.11 that is described in this division. In lieu of imposing the additional prison term or term of imprisonment under this division, the court may impose upon the offender a sanction of suspension of the offender's driving privileges in accordance with section 4510.02 of the Revised Code.

(2) If a court imposes a prison term or term of imprisonment upon an offender for a violation of section 2925.03 or 2925.11 or a violation of section 2925.05 or 2925.06 that is a felony of the first or second degree and that is committed while the offender was a juvenile offender transferred to the adult court or to a serious youthful offender dispositional sentence under section 2152.10 or 2152.13 or a violation of section 2925.03 or 2925.11 that is a felony of the third or fourth degree that is committed while the offender was a juvenile offender transferred to the adult court or to a serious youthful offender dispositional sentence under section 2152.10 or 2152.13 if the offender also is convicted or is adjudicated guilty of a specification of the type described in section 2941.145 of the Revised Code that charges the offender with committing the offense while possessing a firearm, the court shall impose a prison term or term of imprisonment upon the offender for the violation of section 2925.03, 2925.05, 2925.06, 2925.11, or 2925.03 or 2925.11 that is described in this division that is in addition to any other prison term or term of imprisonment imposed upon the offender for the violation of section 2925.03, 2925.05, 2925.06, 2925.11, or 2925.03 or 2925.11 that is described in this division. In lieu of imposing the additional prison term or term of imprisonment under this division, the court may impose upon the offender a sanction of suspension of the offender's driving privileges in accordance with section 4510.02 of the Revised Code.

(I) Except as provided in division (B)(2) of this section, if an offender who is convicted of or pleads guilty to a violation of section 2923.32 or division (B)(2) or (3) of section 2913.48 of the Revised Code or a felony of the first or second degree and is sentenced to a prison term or term of imprisonment for the violation or offense, in addition to the prison term or term of imprisonment for any other violation or offense arising out of the same act or transaction, the court shall impose upon the offender for the felony violation a mandatory prison term determined as described in this division that cannot be reduced pursuant to section 2929.20 or division (F) of section 2967.19 of the Revised Code or pursuant to any other provision of law but shall be reduced if and to the extent that the court imposes a mandatory prison term pursuant to division (A)(3) of this section for a felony of the third degree, except that the offender for which the court imposes a mandatory prison term described in this division is not eligible for any reduction in the term imposed under section 2929.20 or division (F) of section 2967.19 of the Revised Code or pursuant to any other provision of law. The mandatory prison term that the court shall impose upon the offender for the felony violation under this division is a prison term that is not less than one year nor more than five years. In lieu of imposing the additional prison term or term of imprisonment under this division, the court may impose upon the offender a sanction of suspension of the offender's driving privileges in accordance with section 4510.02 of the Revised Code.

(J) If an offender is convicted of or pleads guilty to a violation of division (A)(1) or (A)(2) of section 2907.05 of the Revised Code and if the victim is a minor who is less than four years old or is a minor who is less than one year old, the court may impose upon the offender for the violation a prison term that is longer than the applicable maximum prison term prescribed for a felony of the second degree in division (A) of this section but not longer than the applicable maximum prison term prescribed for a felony of the first degree in that division.

(K) If an offender is convicted of or pleads guilty to a violation of section 2903.11 or 2903.12 of the Revised Code and the victim is a peace officer, a common pleas court judge, or a municipal court or county court judge, the court may impose upon the offender for the violation a prison term that is longer than the applicable maximum prison term prescribed for a felony of the second degree in division (A) of this section but not longer than the applicable maximum prison term prescribed for a felony of the first degree in that division.

(L) If an offender is convicted of or pleads guilty to a violation of section 2903.01 or 2903.02 of the Revised Code and the victim is a peace officer, a common pleas court judge, or a municipal court or county court judge, the court may impose upon the offender for the violation a prison term that is longer than the applicable maximum prison term prescribed for a felony of the first or second degree in division (A) of this section but not longer than the applicable maximum prison term prescribed for a felony of the first degree in that division.

(M) If an offender is being sentenced for a third degree felony OVI offense under division (G)(2) of section 2929.13 of the Revised Code, the court may impose upon the offender a mandatory prison term that is a prison term that is not less than one year nor more than five years. In lieu of imposing the mandatory prison term on the offender, the court may impose upon the offender a sanction of suspension of the offender's driving privileges in accordance with section 4510.02 of the Revised Code.

(N) If an offender is convicted of or pleads guilty to a violation of division (A) or (B) of section 2906.01 of the Revised Code and alleges in the indictment, information, or complaint that the offense is a sexually oriented offense and that the victim is a minor, the court may impose upon the offender for the violation a prison term that is longer than the applicable maximum prison term prescribed for a felony of the second degree in division (A) of this section but not longer than the applicable maximum prison term prescribed for a felony of the first degree in that division.

(O) If an offender is convicted of or pleads guilty to a violation of division (A)(1) or (A)(2) of section 2907.05 of the Revised Code and alleges in the indictment, information, or complaint that the offense is a sexually oriented offense and that the victim is a minor who is less than four years old or is a minor who is less than one year old, the court may impose upon the offender for the violation a prison term that is longer than the applicable maximum prison term prescribed for a felony of the second degree in division (A) of this section but not longer than the applicable maximum prison term prescribed for a felony of the first degree in that division.

(P) If an offender is convicted of or pleads guilty to a violation of section 2903.11 or 2903.12 of the Revised Code and the victim is a peace officer or a common pleas court judge, the court may impose upon the offender for the violation a prison term that is longer than the applicable maximum prison term prescribed for a felony of the second degree in division (A) of this section but not longer than the applicable maximum prison term prescribed for a felony of the first degree in that division.

(Q) If an offender is convicted of or pleads guilty to a violation of section 2903.01 or 2903.02 of the Revised Code and the victim is a peace officer or a common pleas court judge, the court may impose upon the offender for the violation a prison term that is longer than the applicable maximum prison term prescribed for a felony of the first or second degree in division (A) of this section but not longer than the applicable maximum prison term prescribed for a felony of the first degree in that division.

(R) If an offender is convicted of or pleads guilty to a violation of division (A)(1) or (A)(2) of section 2907.05 of the Revised Code and alleges in the indictment, information, or complaint that the offense is a sexually oriented offense and that the victim is a minor who is less than four years old or is a minor who is less than one year old, the court may impose upon the offender for the violation a prison term that is longer than the applicable maximum prison term prescribed for a felony of the second degree in division (A) of this section but not longer than the applicable maximum prison term prescribed for a felony of the first degree in that division.

(S) If an offender is convicted of or pleads guilty to a violation of section 2903.11 or 2903.12 of the Revised Code and the victim is a peace officer or a common pleas court judge, the court may impose upon the offender for the violation a prison term that is longer than the applicable maximum prison term prescribed for a felony of the second degree in division (A) of this section but not longer than the applicable maximum prison term prescribed for a felony of the first degree in that division.

(T) If an offender is convicted of or pleads guilty to a violation of section 2903.01 or 2903.02 of the Revised Code and the victim is a peace officer or a common pleas court judge, the court may impose upon the offender for the violation a prison term that is longer than the applicable maximum prison term prescribed for a felony of the first or second degree in division (A) of this section but not longer than the applicable maximum prison term prescribed for a felony of the first degree in that division.

(U) Notwithstanding the foregoing divisions of this section, if a court imposes a prison term upon a person who is convicted of or pleads guilty to a specification of the type described in section 2941.142 of the Revised Code that charges the person with committing a felony while participating in a criminal gang, the court shall impose upon the offender a mandatory prison term of one year if the offender is a first offender as defined in division (A)(36) of section 2929.01 of the Revised Code.

(V) If a court imposes a prison term of one year or more pursuant to division (B)(1) of this section for a felony committed while participating in a criminal gang, the court may impose upon the offender a sanction that requires the offender to wear a monitoring device as part of a sanction imposed pursuant to section 2929.16 or 2929.17 of the Revised Code. If the court imposes such a sanction, the court may require that the offender wear the monitoring device during any period of transitional control that it authorizes for the offender under section 2967.26 of the Revised Code. The court may impose a sanction that requires the offender to wear a monitoring device during the period of transitional control notwithstanding any rule adopted by the adult parole authority to the contrary.

(W) Notwithstanding the foregoing divisions of this section, if a court imposes a prison term upon a person who is convicted of or pleads guilty to a violation of section 2903.04 or 2903.11 regarding a person who was a pregnant woman at the time of the commission of the offense, in addition to any other prison term or term of imprisonment imposed upon the offender for the offense, the court shall impose a prison term or term of imprisonment upon the offender for the violation of section 2903.04 or 2903.11 that is described in this division that is in accordance with the applicable requirements for a prison term or term of imprisonment under division (A) of this section or under division (B)(2) of section 2929.20 of the Revised Code.

(X) Except as provided in division (B)(2) of this section, if an offender who is convicted of or pleads guilty to a violation of section 2921.331 or this section or a felony that is a violation of a municipal ordinance that is substantially similar to section 2921.331 or this section is sentenced to a prison term or term of imprisonment for the violation or felony, in addition to the prison term or term of imprisonment for any other violation or offense arising out of the same act or transaction, the court shall impose upon the offender for the violation of section 2921.331 or this section or the municipal ordinance that is substantially similar to section 2921.331 or this section a mandatory prison term that is a prison term that is not less than one year nor more than five years. In lieu of imposing the additional prison term or term of imprisonment under this division, the court may impose upon the offender a sanction of suspension of the offender's driving privileges in accordance with section 4510.02 of the Revised Code.

(Y) If an offender is convicted of or pleads guilty to a violation of section 2903.06 or 2903.08 of the Revised Code or a violation of section 2903.04 of the Revised Code that is a felony, and if the offender also is convicted or is adjudicated guilty of a specification of the type described in section 2941.146 of the Revised Code that charges the offender with committing the offense by operating a motor vehicle, vessel, or aircraft, the court shall impose upon the offender for the violation a mandatory prison term that is a prison term that is not less than two years nor more than five years. In lieu of imposing the additional prison term or term of imprisonment under this division, the court may impose upon the offender a sanction of suspension of the offender's driving privileges in accordance with section 4510.02 of the Revised Code.

(Z) If an offender is convicted of or pleads guilty to a violation of section 2903.06 or 2903.08 of the Revised Code or a violation of section 2903.04 of the Revised Code that is a felony, and if the offender also is convicted or is adjudicated guilty of a specification of the type described in section 2941.147 of the Revised Code that charges the offender with committing the offense by operating a motor vehicle, vessel, or aircraft and that the offender's operation of the motor vehicle, vessel, or aircraft proximately caused serious physical harm to another or to another's unborn, and that the physical harm resulted to a permanent, serious impairment of a bodily function or permanent, substantial incapacity,

(AA) Notwithstanding the foregoing divisions of this section, if a court imposes a prison term upon a person who is convicted of or pleads guilty to a violation of section 2905.01 or 2905.02 of the Revised Code and the specification described in division (A)(2) of section 2941.151 of the Revised Code is part of the indictment or complaint, the court shall impose upon the offender for the violation a prison term that is not less than one year nor more than five years. In lieu of imposing the additional prison term or term of imprisonment under this division, the court may impose upon the offender a sanction of suspension of the offender's driving privileges in accordance with section 4510.02 of the Revised Code.

(BB) Notwithstanding the foregoing divisions of this section, if a court imposes a prison term upon a person who is convicted of or pleads guilty to a violation of section 2903.04 or 2903.11 regarding a person who was a pregnant woman at the time of the commission of the offense, in addition to any other prison term or term of imprisonment imposed upon the offender for the offense, the court shall impose upon the offender for the violation of section 2903.04 or 2903.11 that is described in this division that is in accordance with the applicable requirements for a prison term or term of imprisonment under division (A) of this section or under division (B)(2) of section 2929.20 of the Revised Code.

(CC) Notwithstanding the foregoing divisions of this section, if a court imposes a prison term upon a person who is convicted of or pleads guilty to a violation of section 2903.06 or 2903.08 of the Revised Code or a violation of section 2903.04 of the Revised Code that is a felony and that is committed while the offender was a juvenile offender transferred to the adult court or to a serious youthful offender dispositional sentence under section 2152.10 or 2152.13 if the offender also is convicted or is adjudicated guilty of a specification of the type described in section 2941.149 of the Revised Code that charges the offender with committing the offense while participating in a criminal gang, the court shall impose upon the offender for the violation a prison term that is not less than one year nor more than five years. In lieu of imposing the additional prison term or term of imprisonment under this division, the court may impose upon the offender a sanction of suspension of the offender's driving privileges in accordance with section 4510.02 of the Revised Code.

(DD) If an offender is being sentenced for a third degree felony OVI offense under division (G)(2) of section 2929.13 of the Revised Code, the court may impose upon the offender a mandatory prison term that is a prison term that is not less than one year nor more than five years. In lieu of imposing the mandatory prison term on the offender, the court may impose upon the offender a sanction of suspension of the offender's driving privileges in accordance with section 4510.02 of the Revised Code.

(EE) If an offender is being sentenced for a felony that is not a felony of the first degree and that is not punishable by a mandatory prison term, the court shall impose on the offender a prison term that is not less than the minimum term nor more than the maximum term described in division (A) of this section if the felony is one for which division (A)(2) of this section authorizes a prison term of three years, or a prison term of one, two, three, four, or five years if the felony is one for which division (A)(3) of this section authorizes a prison term of four or five years.

(FF) Notwithstanding the foregoing divisions of this section, if a court imposes a prison term upon a person who is convicted of or pleads guilty to a violation of section 2903.06 or 2903.08 of the Revised Code or a violation of section 2903.04 of the Revised Code that is a felony, and if the offender also is convicted or is adjudicated guilty of a specification of the type described in section 2941.151 of the Revised Code that charges the offender with committing the offense while being a repeat violent offender, the court shall impose upon the offender for the violation a prison term that is not less than one year nor more than five years. In lieu of imposing the additional prison term or term of imprisonment under this division, the court may impose upon the offender a sanction of suspension of the offender's driving privileges in accordance with section 4510.02 of the Revised Code.

(GG) Notwithstanding the foregoing divisions of this section, if a court imposes a prison term upon a person who is convicted of or pleads guilty to a violation of section 2903.06 or 2903.08 of the Revised Code or a violation of section 2903.04 of the Revised Code that is a felony, and if the offender also is convicted or is adjudicated guilty of a specification of the type described in section 2941.152 of the Revised Code that charges the offender with committing the offense while being a repeat violent offender and causing serious physical harm to persons and property, the court shall impose upon the offender for the violation a prison term that is not less than one year nor more than five years. In lieu of imposing the additional prison term or term of imprisonment under this division, the court may impose upon the offender a sanction of suspension of the offender's driving privileges in accordance with section 4510.02 of the Revised Code.

(HH) If an offender is being sentenced for a third degree felony OVI offense under division (G)(2) of section 2929.13 of the Revised Code, the court may impose upon the offender a mandatory prison term that is a prison term that is not less than one year nor more than five years. In lieu of imposing the mandatory prison term on the offender, the court may impose upon the offender a sanction of suspension of the offender's driving privileges in accordance with section 4510.02 of the Revised Code.

(II) If an offender is convicted of or pleads guilty to a violation of section 2903.06 or 2903.08 of the Revised Code or a violation of section 2903.04 of the Revised Code that is a felony, and if the offender also is convicted or is adjudicated guilty of a specification of the type described in section 2941.153 of the Revised Code that charges the offender with committing the offense by operating a motor vehicle while under the influence of alcohol, a drug of abuse, or a combination thereof, and that the offender's operation of the motor vehicle proximately caused serious physical harm to another or to another's unborn, and that the physical harm resulted in any of the following: serious physical harm to persons and property; serious physical harm to another's unborn; or a loss to persons other than the offender exceeding $7,500, the court shall impose upon the offender a mandatory prison term of one, two, three, four, or five years. In lieu of imposing the additional prison term or term of imprisonment under this division, the court may impose upon the offender a sanction of suspension of the offender's driving privileges in accordance with section 4510.02 of the Revised Code.

(JJ) If an offender is being sentenced for a third degree felony OVI offense under division (G)(2) of section 2929.13 of the Revised Code, the court may impose upon the offender a mandatory prison term that is a prison term that is not less than one year nor more than five years. In lieu of imposing the mandatory prison term on the offender, the court may impose upon the offender a sanction of suspension of the offender's driving privileges in accordance with section 4510.02 of the Revised Code.

(KK) If an offender is convicted of or pleads guilty to a violation of section 2903.06 or 2903.08 of the Revised Code or a violation of section 2903.04 of the Revised Code that is a felony, and if the offender also is convicted or is adjudicated guilty of a specification of the type described in section 2941.154 of the Revised Code that charges the offender with committing the offense by operating a motor vehicle while having a prohibited blood alcohol content, the court shall impose upon the offender for the violation a prison term that is not less than one year nor more than five years. In lieu of imposing the additional prison term or term of imprisonment under this division, the court may impose upon the offender a sanction of suspension of the offender's driving privileges in accordance with section 4510.02 of the Revised Code.

(LL) Notwithstanding the foregoing divisions of this section, if a court imposes a prison term upon a person who is convicted of or pleads guilty to a violation of section 2903.04 or 2903.11 regarding a person who was a pregnant woman at the time of the commission of the offense, in addition to any other prison term or term of imprisonment imposed upon the offender for the offense, the court shall impose upon the offender for the violation of section 2903.04 or 2903.11 that is described in this division that is in accordance with the applicable requirements for a prison term or term of imprisonment under division (A) of this section or under division (B)(2) of section 2929.20 of the Revised Code.

(MM) Notwithstanding the foregoing divisions of this section, if a court imposes a prison term upon a person who is convicted of or pleads guilty to a violation of section 2903.06 or 2903.08 of the Revised Code or a violation of section 2903.04 of the Revised Code that is a felony and that is committed while the offender was a juvenile offender transferred to the adult court or to a serious youthful offender dispositional sentence under section 2152.10 or 2152.13 if the offender also is convicted or is adjudicated guilty of a specification of the type described in section 2941.149 of the Revised Code that charges the offender with committing the offense while participating in a criminal gang, the court shall impose upon the offender for the violation a prison term that is not less than one year nor more than five years. In lieu of imposing the additional prison term or term of imprisonment under this division, the court may impose upon the offender a sanction of suspension of the offender's driving privileges in accordance with section 4510.02 of the Revised Code.

(NN) If an offender is being sentenced for a third degree felony OVI offense under division (G)(2) of section 2929.13 of the Revised Code, the court may impose upon the offender a mandatory prison term that is a prison term that is not less than one year nor more than five years. In lieu of imposing the mandatory prison term on the offender, the court may impose upon the offender a sanction of suspension of the offender's driving privileges in accordance with section 4510.02 of the Revised Code.

(OO) If an offender is convicted of or pleads guilty to a violation of section 2903.06 or 2903.08 of the Revised Code or a violation of section 2903.04 of the Revised Code that is a felony, and if the offender also is convicted or is adjudicated guilty of a specification of the type described in section 2941.155 of the Revised Code that charges the offender with committing the offense by operating a motor vehicle while not in compliance with a prohibition described in that section, the court shall impose upon the offender for the violation a prison term that is not less than one year nor more than five years. In lieu of imposing the additional prison term or term of imprisonment under this division, the court may impose upon the offender a sanction of suspension of the offender's driving privileges in accordance with section 4510.02 of the Revised Code.

(PP)(1) Except as provided in division (PP)(2) of this section, if an offender who is convicted of or pleads guilty to a violation of section 2903.11 or 2903.12 of the Revised Code or a violation of section 2903.13 of the Revised Code is sentenced to a prison term or term of imprisonment for the violation, in addition to the prison term or term of imprisonment for any other violation or offense arising out of the same act or transaction, the court shall impose upon the offender for the violation of section 2903.11, 2903.12, or 2903.13 that is described in this division that is in accordance with the applicable requirements for a prison term or term of imprisonment under division (A) of this section or under division (B)(2) of section 2929.20 of the Revised Code.

((2) If an offender who is convicted of or pleads guilty to a violation of section 2903.11 or 2903.12 of the Revised Code or a violation of section 2903.13 of the Revised Code is sentenced to a prison term or term of imprisonment for the violation, in addition to the prison term or term of imprisonment for any other violation or offense arising out of the same act or transaction, the court may impose upon the offender for the violation of section 2903.11, 2903.12, or 2903.13 that is described in this division that is in accordance with the applicable requirements for a prison term or term of imprisonment under division (A) of this section or under division (B)(2) of section 2929.20 of the Revised Code, except that if the victim is a peace officer or a common pleas court judge, the court may impose upon the offender for the violation a prison term that is longer than the applicable maximum prison term prescribed for a felony of the second degree in division (A) of this section but not longer than the applicable maximum prison term prescribed for a felony of the first degree in that division.

(QQ) Notwithstanding the foregoing divisions of this section, if a court imposes a prison term upon a person who is convicted of or pleads guilty to a violation of section 2903.06 or 2903.08 of the Revised Code or a violation of section 2903.04 of the Revised Code that is a felony, and if the offender also is convicted or is adjudicated guilty of a specification of the type described in section 2941.156 of the Revised Code that charges the offender with committing the offense while having a firearm, the court shall impose upon the offender for the violation a prison term that is not less than one year nor more than five years. In lieu of imposing the additional prison term or term of imprisonment under this division, the court may impose upon the offender a sanction of suspension of the offender's driving privileges in accordance with section 4510.02 of the Revised Code.

(RR) Notwithstanding the foregoing divisions of this section, if a court imposes a prison term upon a person who is convicted of or pleads guilty to a violation of section 2903.06 or 2903.08 of the Revised Code or a violation of section 2903.04 of the Revised Code that is a felony, and if the offender also is convicted or is adjudicated guilty of a specification of the type described in section 2941.157 of the Revised Code that charges the offender with committing the offense while having a firearm and causing serious physical harm to persons and property, the court shall impose upon the offender for the violation a prison term that is not less than one year nor more than five years. In lieu of imposing the additional prison term or term of imprisonment under this division, the court may impose upon the offender a sanction of suspension of the offender's driving privileges in accordance with section 4510.02 of the Revised Code.

(SS) Notwithstanding the foregoing divisions of this section, if a court imposes a prison term upon a person who is convicted of or pleads guilty to a violation of section 2903.06 or 2903.08 of the Revised Code or a violation of section 2903.04 of the Revised Code that is a felony, and if the offender also is convicted or is adjudicated guilty of a specification of the type described in section 2941.158 of the Revised Code that charges the offender with committing the offense while having a firearm and causing serious physical harm to a peace officer, the court shall impose upon the offender for the violation a prison term that is not less than one year nor more than five years. In lieu of imposing the additional prison term or term of imprisonment under this division, the court may impose upon the offender a sanction of suspension of the offender's driving privileges in accordance with section 4510.02 of the Revised Code.

(TT) Notwithstanding the foregoing divisions of this section, if a court imposes a prison term upon a person who is convicted of or pleads guilty to a violation of section 2903.06 or 2903.08 of the Revised Code or a violation of section 2903.04 of the Revised Code that is a felony, and if the offender also is convicted or is adjudicated guilty of a specification of the type described in section 2941.159 of the Revised Code that charges the offender with committing the offense while having a firearm and causing serious physical harm to a peace officer, the court shall impose upon the offender for the violation a prison term that is not less than one year nor more than five years. In lieu of imposing the additional prison term or term of imprisonment under this division, the court may impose upon the offender a sanction of suspension of the offender's driving privileges in accordance with section 4510.02 of the Revised Code.

(UU) Notwithstanding the foregoing divisions of this section, if a court imposes a prison term upon a person who is convicted of or pleads guilty to a violation of section 2903.06 or 2903.08 of the Revised Code or a violation of section 2903.04 of the Revised Code that is a felony, and if the offender also is convicted or is adjudicated guilty of a specification of the type described in section 2941.160 of the Revised Code that charges the offender with committing the offense while having a firearm and causing serious physical harm to a peace officer, the court shall impose upon the offender for the violation a prison term that is not less than one year nor more than five years. In lieu of imposing the additional prison term or term of imprisonment under this division, the court may impose upon the offender a sanction of suspension of the offender's driving privileges in accordance with section 4510.02 of the Revised Code.

(VV) Notwithstanding the foregoing divisions of this section, if a court imposes a prison term upon a person who is convicted of or pleads guilty to a violation of section 2903.06 or 2903.08 of the Revised Code or a violation of section 2903.04 of the Revised Code that is a felony, and if the offender also is convicted or is adjudicated guilty of a specification of the type described in section 2941.161 of the Revised Code that charges the offender with committing the offense while having a firearm and causing serious physical harm to persons and property, the court shall impose upon the offender for the violation a prison term that is not less than one year nor more than five years. In lieu of imposing the additional prison term or term of imprisonment under this division, the court may impose upon the offender a sanction of suspension of the offender's driving privileges in accordance with section 4510.02 of the Revised Code.

(WW) Notwithstanding the foregoing divisions of this section, if a court imposes a prison term upon a person who is convicted

(2)(a) If an offender is convicted of or pleads guilty to a felony violation of section 2907.22, 2907.24, 2907.241, or 2907.25 of the Revised Code and to a specification of the type described in section 2941.1421 of the Revised Code and if the court imposes a prison term on the offender for the felony violation, the court may impose upon the offender an additional prison term as follows:

(i) Subject to division (H)(2)(a)(ii) of this section, an additional prison term of one, two, three, four, five, or six months;

(ii) If the offender previously has been convicted of or pleaded guilty to one or more felony or misdemeanor violations of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of the Revised Code and also was convicted of or pleaded guilty to a specification of the type described in section 2941.1421 of the Revised Code regarding one or more of those violations, an additional prison term of one, two, three, four, five, six, seven, eight, nine, ten, eleven, or twelve months.

(b) In lieu of imposing an additional prison term under division (H)(2)(a) of this section, the court may directly impose on the offender a sanction that requires the offender to wear a real-time processing, continual tracking electronic monitoring device during the period of time specified by the court. The period of time specified by the court shall equal the duration of an additional prison term that the court could have imposed upon the offender under division (H)(2)(a) of this section. A sanction imposed under this division shall commence on the date specified by the court, provided that the sanction shall not commence until after the offender has served the prison term imposed for the felony violation of section 2907.22, 2907.24, 2907.241, or 2907.25 of the Revised Code and any residential sanction imposed for the violation under section 2929.16 of the Revised Code. A sanction imposed under this division shall be considered to be a community control sanction for purposes of section 2929.15 of the Revised Code, and all provisions of the Revised Code that pertain to community control sanctions shall apply to a sanction imposed under this division, except to the extent that they would by their nature be clearly inapplicable. The offender shall pay all costs associated with a sanction imposed under this division, including the cost of the use of the monitoring device.

(I) At the time of sentencing, the court may recommend the offender for placement in a program of shock incarceration under section 5120.031 of the Revised Code or for placement in an intensive program prison under section 5120.032 of the Revised Code, disapprove placement of the offender in a program of shock incarceration or an intensive program prison of that nature, or make no recommendation on placement of the offender. In no case shall the department of rehabilitation and correction place the offender in a program or prison of that nature unless the department determines as specified in section 5120.031 or 5120.032 of the Revised Code, whichever is applicable, that the offender is eligible for the placement.

If the court disapproves placement of the offender in a program or prison of that nature, the department of rehabilitation and correction shall not place the offender in any program of shock incarceration or intensive program prison.

If the court recommends placement of the offender in a program of shock incarceration or in an intensive program prison, and if the offender is subsequently placed in the recommended program or prison, the department shall notify the court of the placement and shall include with the notice a brief description of the placement.

If the court recommends placement of the offender in a program of shock incarceration or in an intensive program prison and the department does not subsequently place the offender in the recommended program or prison, the department shall send a notice to the court indicating why the offender was not placed in the recommended program or prison.

If the court does not make a recommendation under this division with respect to an offender and if the department determines as specified in section 5120.031 or 5120.032 of the Revised Code, whichever is applicable, that the offender is eligible for placement in a program or prison of that nature, the department shall screen the offender and determine if there is an available program of shock incarceration or an intensive program prison for which the offender is suited. If there is an available program of shock incarceration or an intensive program prison for which the offender is suited, the department shall notify the court of the proposed placement of the offender as specified in section 5120.031 or 5120.032 of the Revised Code and shall include with the notice a brief description of the placement. The court shall have ten days from receipt of the notice to disapprove the placement.

(J) If a person is convicted of or pleads guilty to aggravated vehicular homicide in violation of division (A)(1) of section 2903.06 of the Revised Code and division (B)(2)(c) of that section applies, the person shall be sentenced pursuant to section 2929.142 of the Revised Code.

(K)(1) The court shall impose an additional mandatory prison term of two, three, four, five, six, seven, eight, nine, ten, or eleven years on an offender who is convicted of or pleads guilty to a violent felony offense if the offender also is convicted of or pleads guilty to a specification of the type described in section 2941.1424 of the Revised Code that charges that the offender is a violent career criminal and had a firearm on or about the offender's person or under the offender's control while committing the presently charged violent felony offense and displayed or brandished the firearm, indicated that the offender possessed a firearm, or used the firearm to facilitate the offense. The offender shall serve the prison term imposed under this division consecutively to and prior to the prison term imposed for the underlying offense. The prison term shall not be reduced pursuant to section 2929.20, division (A)(2) or (3) of section 2967.193 or 2967.194, or any other provision of Chapter 2967. or 5120. of the Revised Code. A court may not impose more than one sentence under division (B)(2)(a) of this section and this division for acts committed as part of the same act or transaction.

(2) As used in division (K)(1) of this section, "violent career criminal" and "violent felony offense" have the same meanings as in section 2923.132 of the Revised Code.

(L) If an offender receives or received a sentence of life imprisonment without parole, a sentence of life imprisonment, a definite sentence, or a sentence to an indefinite prison term under this chapter for a felony offense that was committed when the offender was under eighteen years of age, the offender's parole eligibility shall be determined under section 2967.132 of the Revised Code.

Last updated March 20, 2024 at 8:40 AM

Available Versions of this Section

- September 28, 2012 – Senate Bill 337 - 129th General Assembly [View September 28, 2012 Version]
- March 23, 2015 – House Bill 234 - 130th General Assembly [View March 23, 2015 Version]
- September 14, 2016 – Senate Bill 97 - 131st General Assembly [View September 14, 2016 Version]
- April 6, 2017 – House Bill 470 (GA 131), Senate Bill 319 (GA 131) [View April 6, 2017 Version]
- March 22, 2019 – Amended by Senate Bill 1, Senate Bill 201, House Bill 63, Senate Bill 20 - 132nd General Assembly [View March 22, 2019 Version]
- April 12, 2021 – Amended by Senate Bill 256, House Bill 136 - 133rd General Assembly [View April 12, 2021 Version]
- April 4, 2023 – Amended by Senate Bill 288 - 134th General Assembly [View April 4, 2023 Version]
- June 12, 2024 – Amended by Senate Bill 106 - 135th General Assembly [View June 12, 2024 Version]

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Ohio Revised Code

Section 2929.24 Definite jail terms for misdemeanors.

Effective: April 4, 2023
Legislation: Senate Bill 288

(A) Except as provided in section 2929.22 or 2929.23 of the Revised Code or division (E) of this section and unless another term is required or authorized pursuant to law, if the sentencing court imposing a sentence upon an offender for a misdemeanor elects or is required to impose a jail term on the offender pursuant to this chapter, the court shall impose a definite jail term that shall be one of the following:

(1) For a misdemeanor of the first degree, not more than one hundred eighty days;

(2) For a misdemeanor of the second degree, not more than ninety days;

(3) For a misdemeanor of the third degree, not more than sixty days;

(4) For a misdemeanor of the fourth degree, not more than thirty days.

(B)(1) A court that sentences an offender to a jail term under this section may permit the offender to serve the sentence in intermittent confinement or may authorize a limited release of the offender as provided in division (B) of section 2929.26 of the Revised Code. The court retains jurisdiction over every offender sentenced to jail to modify the jail sentence imposed at any time, but the court shall not reduce any mandatory jail term.

(2)(a) If a prosecutor, as defined in section 2935.01 of the Revised Code, has filed a notice with the court that the prosecutor wants to be notified about a particular case and if the court is considering modifying the jail sentence of the offender in that case, the court shall notify the prosecutor that the court is considering modifying the jail sentence of the offender in that case. The prosecutor may request a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, and, if the prosecutor requests a hearing, the court shall notify the eligible offender of the hearing.

(b) If the prosecutor requests a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, the court shall hold the hearing before considering whether or not to release the offender from the offender's jail sentence.

(C) If a court sentences an offender to a jail term under this section and the court assigns the offender to a county jail that has established a county jail industry program pursuant to section 5147.30 of the Revised Code, the court shall specify, as part of the sentence, whether the offender may be considered for participation in the program. During the offender's term in the county jail, the court retains jurisdiction to modify its specification regarding the offender's participation in the county jail industry program.

(D) If a person is sentenced to a jail term pursuant to this section, the court may impose as part of the sentence pursuant to section 2929.28 of the Revised Code a reimbursement sanction, and, if the local detention facility in which the term is to be served is covered by a policy adopted pursuant to section 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 of the Revised Code and section 2929.37 of the Revised Code, both of the following apply:

(1) The court shall specify both of the following as part of the sentence:

(a) If the person is presented with an itemized bill pursuant to section 2929.37 of the Revised Code for payment of the costs of confinement, the person is required to pay the bill in accordance with that section.

(b) If the person does not dispute the bill described in division (D)(1)(a) of this section and does not pay the bill by the times specified in section 2929.37 of the Revised Code, the clerk of the court may issue a certificate of judgment against the person as described in that section.

(2) The sentence automatically includes any certificate of judgment issued as described in division (D)(1)(b) of this section.

(E)(1) If an offender is convicted of or pleads guilty to a misdemeanor violation of section 2907.23, 2907.24, 2907.241, or 2907.25 of the Revised Code and to a specification of the type described in section 2941.1421 of the Revised Code and if the court imposes a jail term on the offender for the

misdemeanor violation, the court may impose upon the offender an additional definite jail term as follows:

(a) Subject to division (E)(1)(b) of this section, an additional definite jail term of not more than sixty days;

(b) If the offender previously has been convicted of or pleaded guilty to one or more misdemeanor or felony violations of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of the Revised Code and also was convicted of or pleaded guilty to a specification of the type described in section 2941.1421 of the Revised Code regarding one or more of those violations, an additional definite jail term of not more than one hundred twenty days.

(2) In lieu of imposing an additional definite jail term under division (E)(1) of this section, the court may directly impose on the offender a sanction that requires the offender to wear a real-time processing, continual tracking electronic monitoring device during the period of time specified by the court. The period of time specified by the court shall equal the duration of an additional jail term that the court could have imposed upon the offender under division (E)(1) of this section. A sanction imposed under this division shall commence on the date specified by the court, provided that the sanction shall not commence until after the offender has served the jail term imposed for the misdemeanor violation of section 2907.23, 2907.24, 2907.241, or 2907.25 of the Revised Code and any residential sanction imposed for the violation under section 2929.26 of the Revised Code. A sanction imposed under this division shall be considered to be a community control sanction for purposes of section 2929.25 of the Revised Code, and all provisions of the Revised Code that pertain to community control sanctions shall apply to a sanction imposed under this division, except to the extent that they would by their nature be clearly inapplicable. The offender shall pay all costs associated with a sanction imposed under this division, including the cost of the use of the monitoring device.

(F) If an offender is convicted of or pleads guilty to a misdemeanor violation of section 2903.13 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1423 of the Revised Code that charges that the victim of the violation was a woman whom the offender knew was pregnant at the time of the violation, the court shall impose on the offender a mandatory jail term that is a definite term of at least thirty days.

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(G) If a court sentences an offender to a jail term under this section, the sentencing court retains jurisdiction over the offender and the jail term. Upon motion of either party or upon the court's own motion, the court, in the court's sole discretion and as the circumstances warrant, may substitute one or more community control sanctions under section 2929.26 or 2929.27 of the Revised Code for any jail days that are not mandatory jail days.

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Ohio Revised Code

Section 2925.11 Possession of controlled substances.

Effective: October 3, 2023
Legislation: House Bill 33

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

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

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

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

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

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

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

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

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

(ii) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(iii) "Health care facility" has the same meaning as in section 2919.16 of the Revised Code.

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

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

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

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

(viii) "Qualified individual" means a person who is acting in good faith who seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person who experiences a drug overdose and who seeks medical assistance for that overdose, or a person who is the subject of another person seeking or obtaining medical assistance for that overdose as described in division (B)(2)(b) of this section.

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

(b) Subject to division (B)(2)(e) of this section, a qualified individual shall not be arrested, charged, prosecuted, convicted, or penalized pursuant to this chapter for a minor drug possession offense or a violation of section 2925.12, division (C)(1) of section 2925.14, or section 2925.141 of the Revised Code if all of the following apply:

(i) The evidence of the obtaining, possession, or use of the controlled substance or controlled

substance analog, drug abuse instruments, or drug paraphernalia that would be the basis of the offense was obtained as a result of the qualified individual seeking the medical assistance or experiencing an overdose and needing medical assistance.

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

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

(c) If a person who is serving a community control sanction or is under a sanction on post-release control acts pursuant to division (B)(2)(b) of this section, then division (B) of section 2929.141, division (B)(2) of section 2929.15, division (D)(3) of section 2929.25, or division (F)(3) of section 2967.28 of the Revised Code applies to the person with respect to any violation of the sanction or post-release control sanction based on a minor drug possession offense, as defined in section 2925.11 of the Revised Code, or a violation of section 2925.12, division (C)(1) of section 2925.14, or section 2925.141 of the Revised Code.

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

(i) Limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regards to a defendant who does not qualify for the protections of division (B)(2)(b) of this section or with regards to any crime other than a minor drug possession offense or a violation of section 2925.12, division (C)(1) of section 2925.14, or section 2925.141 of the Revised Code committed by a person who qualifies for protection pursuant to division (B)(2)(b) of this section;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Except as otherwise provided in division (C)(3)(b), (c), (d), (e), (f), or (g) of this section, possession of marihuana is a minor misdemeanor.

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

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

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

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

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

(g) If the amount of the drug involved equals or exceeds forty thousand grams, possession of marihuana is a felony of the second degree, and the court shall impose as a mandatory prison term a maximum second degree felony mandatory prison term.

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

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

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

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

(d) If the amount of the drug involved equals or exceeds twenty grams but is less than twenty-seven grams of cocaine, possession of cocaine is a felony of the second degree, and the court shall impose as a mandatory prison term a second degree felony mandatory prison term.

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

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

(5) If the drug involved in the violation is L.S.D., whoever violates division (A) of this section is

guilty of possession of L.S.D. The penalty for the offense shall be determined as follows:

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

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

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

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

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

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

mandatory prison term.

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

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

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

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

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

(e) If the amount of the drug involved equals or exceeds five hundred unit doses but is less than one thousand unit doses or equals or exceeds fifty grams but is less than one hundred grams, possession of heroin is a felony of the first degree, and the court shall impose as a mandatory prison term a first degree felony mandatory prison term.

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

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

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

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

(c) If the amount of the drug involved equals or exceeds ten grams but is less than fifty grams of hashish in a solid form or equals or exceeds two grams but is less than ten grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

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

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

(f) If the amount of the drug involved equals or exceeds one thousand grams but is less than two thousand grams of hashish in a solid form or equals or exceeds two hundred grams but is less than

four hundred grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a felony of the second degree, and the court shall impose as a mandatory prison term a second degree felony mandatory prison term of five, six, seven, or eight years.

(g) If the amount of the drug involved equals or exceeds two thousand grams of hashish in a solid form or equals or exceeds four hundred grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a felony of the second degree, and the court shall impose as a mandatory prison term a maximum second degree felony mandatory prison term.

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

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

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

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

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

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

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

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

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

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

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

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

(b) If the offender knows or has reason to know that the compound, mixture, preparation, or substance that is the drug involved contains a fentanyl-related compound, the offender is guilty of

possession of a fentanyl-related compound and shall be punished under division (C)(11) of this section.

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

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

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

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

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

(e) If the amount of the drug involved equals or exceeds two hundred unit doses but is less than five hundred unit doses or equals or exceeds twenty grams but is less than fifty grams, possession of a

fentanyl-related compound is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

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

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

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

(E) In addition to any prison term or jail term authorized or required by division (C) of this section and sections 2929.13, 2929.14, 2929.22, 2929.24, and 2929.25 of the Revised Code and in addition to any other sanction that is imposed for the offense under this section, sections 2929.11 to 2929.18, or sections 2929.21 to 2929.28 of the Revised Code, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (A) of this section may suspend the offender's driver's or commercial driver's license or permit for not more than five years. However, if the offender pleaded guilty to or was convicted of a violation of section 4511.19 of the Revised Code or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If applicable, the court also shall do the following:

(1)(a) If the violation is a felony of the first, second, or third degree, the court shall impose upon the offender the mandatory fine specified for the offense under division (B)(1) of section 2929.18 of the

Revised Code unless, as specified in that division, the court determines that the offender is indigent.

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

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

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

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

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

(H) It is an affirmative defense to a charge of possession of a controlled substance analog under division (C)(8) of this section that the person charged with violating that offense obtained, possessed, or used one of the following items that are excluded from the meaning of "controlled substance analog" under section 3719.01 of the Revised Code:

(1) A controlled substance;

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

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

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

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

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Ohio Revised Code

Section 2929.13 Sanction imposed by degree of felony.

Effective: April 4, 2023
Legislation: Senate Bill 288

(A) Except as provided in division (E), (F), or (G) of this section and unless a specific sanction is required to be imposed or is precluded from being imposed pursuant to law, a court that imposes a sentence upon an offender for a felony may impose any sanction or combination of sanctions on the offender that are provided in sections 2929.14 to 2929.18 of the Revised Code.

If the offender is eligible to be sentenced to community control sanctions, the court shall consider the appropriateness of imposing a financial sanction pursuant to section 2929.18 of the Revised Code or a sanction of community service pursuant to section 2929.17 of the Revised Code as the sole sanction for the offense. Except as otherwise provided in this division, if the court is required to impose a mandatory prison term for the offense for which sentence is being imposed, the court also shall impose any financial sanction pursuant to section 2929.18 of the Revised Code that is required for the offense and may impose any other financial sanction pursuant to that section but may not impose any additional sanction or combination of sanctions under section 2929.16 or 2929.17 of the Revised Code.

If the offender is being sentenced for a fourth degree felony OVI offense or for a third degree felony OVI offense, in addition to the mandatory term of local incarceration or the mandatory prison term required for the offense by division (G)(1) or (2) of this section, the court shall impose upon the offender a mandatory fine in accordance with division (B)(3) of section 2929.18 of the Revised Code and may impose whichever of the following is applicable:

(1) For a fourth degree felony OVI offense for which sentence is imposed under division (G)(1) of this section, an additional community control sanction or combination of community control sanctions under section 2929.16 or 2929.17 of the Revised Code. If the court imposes upon the offender a community control sanction and the offender violates any condition of the community control sanction, the court may take any action prescribed in division (B) of section 2929.15 of the Revised Code relative to the offender, including imposing a prison term on the offender pursuant to that division.

(2) For a third or fourth degree felony OVI offense for which sentence is imposed under division (G)(2) of this section, an additional prison term as described in division (B)(4) of section 2929.14 of the Revised Code or a community control sanction as described in division (G)(2) of this section.

(B)(1)(a) Except as provided in division (B)(1)(b) of this section, if an offender is convicted of or pleads guilty to a felony of the fourth or fifth degree that is not an offense of violence or that is a qualifying assault offense, the court shall sentence the offender to a community control sanction or combination of community control sanctions if all of the following apply:

(i) The offender previously has not been convicted of or pleaded guilty to a felony offense.

(ii) The most serious charge against the offender at the time of sentencing is a felony of the fourth or fifth degree.

(iii) The offender previously has not been convicted of or pleaded guilty to a misdemeanor offense of violence that the offender committed within two years prior to the offense for which sentence is being imposed.

(b) The court has discretion to impose a prison term upon an offender who is convicted of or pleads guilty to a felony of the fourth or fifth degree that is not an offense of violence or that is a qualifying assault offense if any of the following apply:

(i) The offender committed the offense while having a firearm on or about the offender's person or under the offender's control.

(ii) If the offense is a qualifying assault offense, the offender caused serious physical harm to another person while committing the offense, and, if the offense is not a qualifying assault offense, the offender caused physical harm to another person while committing the offense.

(iii) The offender violated a term of the conditions of bond as set by the court.

(iv) The offense is a sex offense that is a fourth or fifth degree felony violation of any provision of

Chapter 2907. of the Revised Code.

(v) In committing the offense, the offender attempted to cause or made an actual threat of physical harm to a person with a deadly weapon.

(vi) In committing the offense, the offender attempted to cause or made an actual threat of physical harm to a person, and the offender previously was convicted of an offense that caused physical harm to a person.

(vii) The offender held a public office or position of trust, and the offense related to that office or position; the offender's position obliged the offender to prevent the offense or to bring those committing it to justice; or the offender's professional reputation or position facilitated the offense or was likely to influence the future conduct of others.

(viii) The offender committed the offense for hire or as part of an organized criminal activity.

(ix) The offender at the time of the offense was serving, or the offender previously had served, a prison term.

(x) The offender committed the offense while under a community control sanction, while on probation, or while released from custody on a bond or personal recognizance.

(c) A sentencing court may impose an additional penalty under division (B) of section 2929.15 of the Revised Code upon an offender sentenced to a community control sanction under division (B)(1)(a) of this section if the offender violates the conditions of the community control sanction, violates a law, or leaves the state without the permission of the court or the offender's probation officer.

(2) If division (B)(1) of this section does not apply, except as provided in division (E), (F), or (G) of this section, in determining whether to impose a prison term as a sanction for a felony of the fourth or fifth degree, the sentencing court shall comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code and with section 2929.12 of the Revised Code.

(C) Except as provided in division (D), (E), (F), or (G) of this section, in determining whether to

impose a prison term as a sanction for a felony of the third degree or a felony drug offense that is a violation of a provision of Chapter 2925. of the Revised Code and that is specified as being subject to this division for purposes of sentencing, the sentencing court shall comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code and with section 2929.12 of the Revised Code.

(D)(1) Except as provided in division (E) or (F) of this section, for a felony of the first or second degree, for a felony drug offense that is a violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code for which a presumption in favor of a prison term is specified as being applicable, and for a violation of division (A)(4) or (B) of section 2907.05 of the Revised Code for which a presumption in favor of a prison term is specified as being applicable, it is presumed that a prison term is necessary in order to comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code. Division (D)(2) of this section does not apply to a presumption established under this division for a violation of division (A)(4) of section 2907.05 of the Revised Code.

(2) Notwithstanding the presumption established under division (D)(1) of this section for the offenses listed in that division other than a violation of division (A)(4) or (B) of section 2907.05 of the Revised Code, the sentencing court may impose a community control sanction or a combination of community control sanctions instead of a prison term on an offender for a felony of the first or second degree or for a felony drug offense that is a violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code for which a presumption in favor of a prison term is specified as being applicable if it makes both of the following findings:

(a) A community control sanction or a combination of community control sanctions would adequately punish the offender and protect the public from future crime, because the applicable factors under section 2929.12 of the Revised Code indicating a lesser likelihood of recidivism outweigh the applicable factors under that section indicating a greater likelihood of recidivism.

(b) A community control sanction or a combination of community control sanctions would not demean the seriousness of the offense, because one or more factors under section 2929.12 of the Revised Code that indicate that the offender's conduct was less serious than conduct normally constituting the offense are applicable, and they outweigh the applicable factors under that section

that indicate that the offender's conduct was more serious than conduct normally constituting the offense.

(E)(1) Except as provided in division (F) of this section, for any drug offense that is a violation of any provision of Chapter 2925. of the Revised Code and that is a felony of the third, fourth, or fifth degree, the applicability of a presumption under division (D) of this section in favor of a prison term or of division (B) or (C) of this section in determining whether to impose a prison term for the offense shall be determined as specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the Revised Code, whichever is applicable regarding the violation.

(2) If an offender who was convicted of or pleaded guilty to a felony violates the conditions of a community control sanction imposed for the offense solely by reason of producing positive results on a drug test, the court, as punishment for the violation of the sanction, shall not order that the offender be imprisoned unless the court determines on the record either of the following:

(a) The offender had been ordered as a sanction for the felony to participate in a drug treatment program, in a drug education program, or in narcotics anonymous or a similar program, and the offender continued to use illegal drugs after a reasonable period of participation in the program.

(b) The imprisonment of the offender for the violation is consistent with the purposes and principles of sentencing set forth in section 2929.11 of the Revised Code.

(3) A court that sentences an offender for a drug abuse offense that is a felony of the third, fourth, or fifth degree may require that the offender be assessed by a properly credentialed professional within a specified period of time. The court shall require the professional to file a written assessment of the offender with the court. If the offender is eligible for a community control sanction and after considering the written assessment, the court may impose a community control sanction that includes addiction services and recovery supports included in a community-based continuum of care established under section 340.032 of the Revised Code. If the court imposes addiction services and recovery supports as a community control sanction, the court shall direct the level and type of addiction services and recovery supports after considering the assessment and recommendation of community addiction services providers.

(F) Notwithstanding divisions (A) to (E) of this section, the court shall impose a prison term or terms under sections 2929.02 to 2929.06, section 2929.14, section 2929.142, or section 2971.03 of the Revised Code and except as specifically provided in section 2929.20, or section 2967.191 of the Revised Code or when parole is authorized for the offense under section 2967.13 of the Revised Code shall not reduce the term or terms pursuant to section 2929.20, division (A)(2) or (3) of section 2967.193 or 2967.194, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code for any of the following offenses:

(1) Aggravated murder when death is not imposed or murder;

(2) Any rape, regardless of whether force was involved and regardless of the age of the victim, or an attempt to commit rape if, had the offender completed the rape that was attempted, the offender would have been guilty of a violation of division (A)(1)(b) of section 2907.02 of the Revised Code and would be sentenced under section 2971.03 of the Revised Code;

(3) Gross sexual imposition or sexual battery, if the victim is less than thirteen years of age and if any of the following applies:

(a) Regarding gross sexual imposition, the offender previously was convicted of or pleaded guilty to rape, the former offense of felonious sexual penetration, gross sexual imposition, or sexual battery, and the victim of the previous offense was less than thirteen years of age;

(b) Regarding gross sexual imposition, the offense was committed on or after August 3, 2006, and evidence other than the testimony of the victim was admitted in the case corroborating the violation.

(c) Regarding sexual battery, either of the following applies:

(i) The offense was committed prior to August 3, 2006, the offender previously was convicted of or pleaded guilty to rape, the former offense of felonious sexual penetration, or sexual battery, and the victim of the previous offense was less than thirteen years of age.

(ii) The offense was committed on or after August 3, 2006.

(4) A felony violation of section 2903.04, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2905.32, 2907.07, 2921.321, or 2923.132 of the Revised Code if the section requires the imposition of a prison term;

(5) A first, second, or third degree felony drug offense for which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, or 4729.99 of the Revised Code, whichever is applicable regarding the violation, requires the imposition of a mandatory prison term;

(6) Any offense that is a first or second degree felony and that is not set forth in division (F)(1), (2), (3), or (4) of this section, if the offender previously was convicted of or pleaded guilty to aggravated murder, murder, any first or second degree felony, or an offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to one of those offenses;

(7) Any offense that is a third degree felony and either is a violation of section 2903.04 of the Revised Code or an attempt to commit a felony of the second degree that is an offense of violence and involved an attempt to cause serious physical harm to a person or that resulted in serious physical harm to a person if the offender previously was convicted of or pleaded guilty to any of the following offenses:

(a) Aggravated murder, murder, involuntary manslaughter, rape, felonious sexual penetration as it existed under section 2907.12 of the Revised Code prior to September 3, 1996, a felony of the first or second degree that resulted in the death of a person or in physical harm to a person, or complicity in or an attempt to commit any of those offenses;

(b) An offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to an offense listed in division (F)(7)(a) of this section that resulted in the death of a person or in physical harm to a person.

(8) Any offense, other than a violation of section 2923.12 of the Revised Code, that is a felony, if the offender had a firearm on or about the offender's person or under the offender's control while

committing the felony, with respect to a portion of the sentence imposed pursuant to division (B)(1)(a) of section 2929.14 of the Revised Code for having the firearm;

(9) Any offense of violence that is a felony, if the offender wore or carried body armor while committing the felony offense of violence, with respect to the portion of the sentence imposed pursuant to division (B)(1)(d) of section 2929.14 of the Revised Code for wearing or carrying the body armor;

(10) Corrupt activity in violation of section 2923.32 of the Revised Code when the most serious offense in the pattern of corrupt activity that is the basis of the offense is a felony of the first degree;

(11) Any violent sex offense or designated homicide, assault, or kidnapping offense if, in relation to that offense, the offender is adjudicated a sexually violent predator;

(12) A violation of division (A)(1) or (2) of section 2921.36 of the Revised Code, or a violation of division (C) of that section involving an item listed in division (A)(1) or (2) of that section, if the offender is an officer or employee of the department of rehabilitation and correction;

(13) A violation of division (A)(1) or (2) of section 2903.06 of the Revised Code if the victim of the offense is a peace officer, as defined in section 2935.01 of the Revised Code, or an investigator of the bureau of criminal identification and investigation, as defined in section 2903.11 of the Revised Code, with respect to the portion of the sentence imposed pursuant to division (B)(5) of section 2929.14 of the Revised Code;

(14) A violation of division (A)(1) or (2) of section 2903.06 of the Revised Code if the offender has been convicted of or pleaded guilty to three or more violations of division (A) of section 4511.19 of the Revised Code or an equivalent offense, as defined in section 2941.1415 of the Revised Code, or three or more violations of any combination of those offenses, with respect to the portion of the sentence imposed pursuant to division (B)(6) of section 2929.14 of the Revised Code;

(15) Kidnapping, in the circumstances specified in section 2971.03 of the Revised Code and when no other provision of division (F) of this section applies;

(16) Kidnapping, abduction, compelling prostitution, promoting prostitution, engaging in a pattern of corrupt activity, a violation of division (A)(1) or (2) of section 2907.323 of the Revised Code that involves a minor, or endangering children in violation of division (B)(1), (2), (3), (4), or (5) of section 2919.22 of the Revised Code, if the offender is convicted of or pleads guilty to a specification as described in section 2941.1422 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense;

(17) A felony violation of division (A) or (B) of section 2919.25 of the Revised Code if division (D)(3), (4), or (5) of that section, and division (D)(6) of that section, require the imposition of a prison term;

(18) A felony violation of section 2903.11, 2903.12, or 2903.13 of the Revised Code, if the victim of the offense was a woman that the offender knew was pregnant at the time of the violation, with respect to a portion of the sentence imposed pursuant to division (B)(8) of section 2929.14 of the Revised Code;

(19)(a) Any violent felony offense if the offender is a violent career criminal and had a firearm on or about the offender's person or under the offender's control during the commission of the violent felony offense and displayed or brandished the firearm, indicated that the offender possessed a firearm, or used the firearm to facilitate the offense, with respect to the portion of the sentence imposed under division (K) of section 2929.14 of the Revised Code.

(b) As used in division (F)(19)(a) of this section, "violent career criminal" and "violent felony offense" have the same meanings as in section 2923.132 of the Revised Code.

(20) Any violation of division (A)(1) of section 2903.11 of the Revised Code if the offender used an accelerant in committing the violation and the serious physical harm to another or another's unborn caused by the violation resulted in a permanent, serious disfigurement or permanent, substantial incapacity or any violation of division (A)(2) of that section if the offender used an accelerant in committing the violation, the violation caused physical harm to another or another's unborn, and the physical harm resulted in a permanent, serious disfigurement or permanent, substantial incapacity, with respect to a portion of the sentence imposed pursuant to division (B)(9) of section 2929.14 of the Revised Code. The provisions of this division and of division (D)(2) of section 2903.11,

divisions (B)(9) and (C)(6) of section 2929.14, and section 2941.1425 of the Revised Code shall be known as "Judy's Law."

(21) Any violation of division (A) of section 2903.11 of the Revised Code if the victim of the offense suffered permanent disabling harm as a result of the offense and the victim was under ten years of age at the time of the offense, with respect to a portion of the sentence imposed pursuant to division (B)(10) of section 2929.14 of the Revised Code.

(22) A felony violation of section 2925.03, 2925.05, or 2925.11 of the Revised Code, if the drug involved in the violation is a fentanyl-related compound or a compound, mixture, preparation, or substance containing a fentanyl-related compound and the offender is convicted of or pleads guilty to a specification of the type described in division (B) of section 2941.1410 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, with respect to the portion of the sentence imposed under division (B)(11) of section 2929.14 of the Revised Code.

(G) Notwithstanding divisions (A) to (E) of this section, if an offender is being sentenced for a fourth degree felony OVI offense or for a third degree felony OVI offense, the court shall impose upon the offender a mandatory term of local incarceration or a mandatory prison term in accordance with the following:

(1) If the offender is being sentenced for a fourth degree felony OVI offense and if the offender has not been convicted of and has not pleaded guilty to a specification of the type described in section 2941.1413 of the Revised Code, the court may impose upon the offender a mandatory term of local incarceration of sixty days or one hundred twenty days as specified in division (G)(1)(d) of section 4511.19 of the Revised Code. The court shall not reduce the term pursuant to section 2929.20, division (A)(2) or (3) of section 2967.193 or 2967.194, or any other provision of the Revised Code. The court that imposes a mandatory term of local incarceration under this division shall specify whether the term is to be served in a jail, a community-based correctional facility, a halfway house, or an alternative residential facility, and the offender shall serve the term in the type of facility specified by the court. A mandatory term of local incarceration imposed under division (G)(1) of this section is not subject to any other Revised Code provision that pertains to a prison term except as provided in division (A)(1) of this section.

(2) If the offender is being sentenced for a third degree felony OVI offense, or if the offender is being sentenced for a fourth degree felony OVI offense and the court does not impose a mandatory term of local incarceration under division (G)(1) of this section, the court shall impose upon the offender a mandatory prison term of one, two, three, four, or five years 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 shall impose upon the offender a mandatory prison term of sixty days or one hundred twenty days as specified in division (G)(1)(d) or (e) of section 4511.19 of the Revised Code if the offender has not been convicted of and has not pleaded guilty to a specification of that type. The court shall not reduce the term pursuant to section 2929.20, division (A)(2) or (3) of section 2967.193 or 2967.194, or any other provision of the Revised Code. The offender shall serve the one-, two-, three-, four-, or five-year mandatory prison term consecutively to and prior to the prison term imposed for the underlying offense and consecutively to any other mandatory prison term imposed in relation to the offense. In no case shall an offender who once has been sentenced to a mandatory term of local incarceration pursuant to division (G)(1) of this section for a fourth degree felony OVI offense be sentenced to another mandatory term of local incarceration under that division for any violation of division (A) of section 4511.19 of the Revised Code. In addition to the mandatory prison term described in division (G)(2) of this section, the court may sentence the offender to a community control sanction under section 2929.16 or 2929.17 of the Revised Code, but the offender shall serve the prison term prior to serving the community control sanction. The department of rehabilitation and correction may place an offender sentenced to a mandatory prison term under this division in an intensive program prison established pursuant to section 5120.033 of the Revised Code if the department gave the sentencing judge prior notice of its intent to place the offender in an intensive program prison established under that section and if the judge did not notify the department that the judge disapproved the placement. Upon the establishment of the initial intensive program prison pursuant to section 5120.033 of the Revised Code that is privately operated and managed by a contractor pursuant to a contract entered into under section 9.06 of the Revised Code, both of the following apply:

(a) The department of rehabilitation and correction shall make a reasonable effort to ensure that a sufficient number of offenders sentenced to a mandatory prison term under this division are placed in the privately operated and managed prison so that the privately operated and managed prison has full occupancy.

(b) Unless the privately operated and managed prison has full occupancy, the department of rehabilitation and correction shall not place any offender sentenced to a mandatory prison term under this division in any intensive program prison established pursuant to section 5120.033 of the Revised Code other than the privately operated and managed prison.

(H) If an offender is being sentenced for a sexually oriented offense or child-victim oriented offense that is a felony committed on or after January 1, 1997, the judge shall require the offender to submit to a DNA specimen collection procedure pursuant to section 2901.07 of the Revised Code.

(I) If an offender is being sentenced for a sexually oriented offense or a child-victim oriented offense committed on or after January 1, 1997, the judge shall include in the sentence a summary of the offender's duties imposed under sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code and the duration of the duties. The judge shall inform the offender, at the time of sentencing, of those duties and of their duration. If required under division (A)(2) of section 2950.03 of the Revised Code, the judge shall perform the duties specified in that section, or, if required under division (A)(6) of section 2950.03 of the Revised Code, the judge shall perform the duties specified in that division.

(J)(1) Except as provided in division (J)(2) of this section, when considering sentencing factors under this section in relation to an offender who is convicted of or pleads guilty to an attempt to commit an offense in violation of section 2923.02 of the Revised Code, the sentencing court shall consider the factors applicable to the felony category of the violation of section 2923.02 of the Revised Code instead of the factors applicable to the felony category of the offense attempted.

(2) When considering sentencing factors under this section in relation to an offender who is convicted of or pleads guilty to an attempt to commit a drug abuse offense for which the penalty is determined by the amount or number of unit doses of the controlled substance involved in the drug abuse offense, the sentencing court shall consider the factors applicable to the felony category that the drug abuse offense attempted would be if that drug abuse offense had been committed and had involved an amount or number of unit doses of the controlled substance that is within the next lower range of controlled substance amounts than was involved in the attempt.

(K) As used in this section:

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

(2) "Drug abuse offense" has the same meaning as in section 2925.01 of the Revised Code.

(3) "Minor drug possession offense" has the same meaning as in section 2925.11 of the Revised Code.

(4) "Qualifying assault offense" means a violation of section 2903.13 of the Revised Code for which the penalty provision in division (C)(8)(b) or (C)(9)(b) of that section applies.

(L) At the time of sentencing an offender for any sexually oriented offense, if the offender is a tier III sex offender/child-victim offender relative to that offense and the offender does not serve a prison term or jail term, the court may require that the offender be monitored by means of a global positioning device. If the court requires such monitoring, the cost of monitoring shall be borne by the offender. If the offender is indigent, the cost of compliance shall be paid by the crime victims reparations fund.

AUTHENTICATED,
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Ohio Revised Code

Section 2925.04 Illegal manufacture of drugs - illegal cultivation of marihuana - methamphetamine offenses.

Effective: October 31, 2018
Legislation: Senate Bill 1, Senate Bill 201 - 132nd General Assembly

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

(B) This section does not apply to any person listed in division (B)(1), (2), or (3) of section 2925.03 of the Revised Code to the extent and under the circumstances described in those divisions.

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

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

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

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

(a) Except as otherwise provided in division (C)(3)(b) of this section, if the drug involved in the violation is methamphetamine, illegal manufacture of drugs is a felony of the second degree, and,

subject to division (E) of this section, the court shall impose a mandatory prison term on the offender determined in accordance with this division. Except as otherwise provided in this division, the court shall impose as a mandatory prison term a second degree felony mandatory prison term that is not less than three years. If the offender previously has been convicted of or pleaded guilty to a violation of division (A) of this section, a violation of division (B)(6) of section 2919.22 of the Revised Code, or a violation of division (A) of section 2925.041 of the Revised Code, the court shall impose as a mandatory prison term a second degree felony mandatory prison term that is not less than five years.

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

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

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

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

(b) If the amount of marihuana involved equals or exceeds one hundred grams but is less than two hundred grams, illegal cultivation of marihuana is a misdemeanor of the fourth degree or, if the

offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the third degree.

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

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

(e) If the amount of marihuana involved equals or exceeds five thousand grams but is less than twenty thousand grams, illegal cultivation of marihuana is a felony of the third degree or, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a felony of the second degree, and there is a presumption for a prison term for the offense.

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

(D) In addition to any prison term authorized or required by division (C) or (E) of this section and sections 2929.13 and 2929.14 of the Revised Code and in addition to any other sanction imposed for the offense under this section or sections 2929.11 to 2929.18 of the Revised Code, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (A) of this section may suspend the offender's driver's or commercial driver's license or permit in accordance

with division (G) of section 2925.03 of the Revised Code. However, if the offender pleaded guilty to or was convicted of a violation of section 4511.19 of the Revised Code or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit in accordance with division (G) of section 2925.03 of the Revised Code. If applicable, the court also shall do the following:

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

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

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

(F) It is an affirmative defense, as provided in section 2901.05 of the Revised Code, to a charge under this section for a fifth degree felony violation of illegal cultivation of marihuana that the marihuana that gave rise to the charge is in an amount, is in a form, is prepared, compounded, or

mixed with substances that are not controlled substances in a manner, or is possessed or cultivated under any other circumstances that indicate that the marihuana was solely for personal use.

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

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

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

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

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

The Legislative Service Commission presents the text of this section as a composite of the section as amended by multiple acts of the General Assembly. This presentation recognizes the principle stated in R.C. 1.52(B) that amendments are to be harmonized if reasonably capable of simultaneous operation.