

As Introduced

**132nd General Assembly
Regular Session
2017-2018**

H. B. No. 614

Representative West

A BILL

To amend sections 2925.11, 2925.14, and 2925.141 of
the Revised Code to provide immunity from
arrest, prosecution, or conviction for use or
possession of drug paraphernalia for a person
who seeks or obtains medical assistance for a
drug overdose.

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

Section 1. That sections 2925.11, 2925.14, and 2925.141 of
the Revised Code be amended to read as follows:

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

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

(a) Manufacturers, licensed health professionals
authorized to prescribe drugs, pharmacists, owners of
pharmacies, 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 19
person who is conducting or participating in a research project 20
involving the use of an anabolic steroid if the project has been 21
approved by the United States food and drug administration; 22

(c) Any person who sells, offers for sale, prescribes, 23
dispenses, or administers for livestock or other nonhuman 24
species an anabolic steroid that is expressly intended for 25
administration through implants to livestock or other nonhuman 26
species and approved for that purpose under the "Federal Food, 27
Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, 28
as amended, and is sold, offered for sale, prescribed, 29
dispensed, or administered for that purpose in accordance with 30
that act; 31

(d) Any person who obtained the controlled substance 32
pursuant to a lawful prescription issued by a licensed health 33
professional authorized to prescribe drugs. 34

(2) (a) As used in division (B) (2) of this section: 35

(i) "Community addiction services provider" has the same 36
meaning as in section 5119.01 of the Revised Code. 37

(ii) "Community control sanction" and "drug treatment 38
program" have the same meanings as in section 2929.01 of the 39
Revised Code. 40

(iii) "Health care facility" has the same meaning as in 41
section 2919.16 of the Revised Code. 42

(iv) "Minor drug possession offense" means a violation of 43
this section that is a misdemeanor or a felony of the fifth 44
degree. 45

(v) "Post-release control sanction" has the same meaning 46

as in section 2967.28 of the Revised Code. 47

(vi) "Peace officer" has the same meaning as in section 48
2935.01 of the Revised Code. 49

(vii) "Public agency" has the same meaning as in section 50
2930.01 of the Revised Code. 51

(viii) "Qualified individual" means a person who is not on 52
community control or post-release control and is a person acting 53
in good faith who seeks or obtains medical assistance for 54
another person who is experiencing a drug overdose, a person who 55
experiences a drug overdose and who seeks medical assistance for 56
that overdose, or a person who is the subject of another person 57
seeking or obtaining medical assistance for that overdose as 58
described in division (B) (2) (b) of this section. 59

(ix) "Seek or obtain medical assistance" includes, but is 60
not limited to making a 9-1-1 call, contacting in person or by 61
telephone call an on-duty peace officer, or transporting or 62
presenting a person to a health care facility. 63

(b) Subject to division (B) (2) (f) of this section, a 64
qualified individual shall not be arrested, charged, prosecuted, 65
convicted, or penalized pursuant to this chapter for a minor 66
drug possession offense or a violation of division (C) (1) of 67
section 2925.14 or section 2925.141 of the Revised Code if all 68
of the following apply: 69

(i) The evidence of the obtaining, possession, or use of 70
the controlled substance or controlled substance analog or drug 71
paraphernalia that would be the basis of the offense was 72
obtained as a result of the qualified individual seeking the 73
medical assistance or experiencing an overdose and needing 74
medical assistance. 75

(ii) Subject to division (B) (2) (g) of this section, within 76
thirty days after seeking or obtaining the medical assistance, 77
the qualified individual seeks and obtains a screening and 78
receives a referral for treatment from a community addiction 79
services provider or a properly credentialed addiction treatment 80
professional. 81

(iii) Subject to division (B) (2) (g) of this section, the 82
qualified individual who obtains a screening and receives a 83
referral for treatment under division (B) (2) (b) (ii) of this 84
section, upon the request of any prosecuting attorney, submits 85
documentation to the prosecuting attorney that verifies that the 86
qualified individual satisfied the requirements of that 87
division. The documentation shall be limited to the date and 88
time of the screening obtained and referral received. 89

(c) If a person is found to be in violation of any 90
community control sanction and if the violation is a result of 91
either of the following, the court shall first consider ordering 92
the person's participation or continued participation in a drug 93
treatment program or mitigating the penalty specified in section 94
2929.13, 2929.15, or 2929.25 of the Revised Code, whichever is 95
applicable, after which the court has the discretion either to 96
order the person's participation or continued participation in a 97
drug treatment program or to impose the penalty with the 98
mitigating factor specified in any of those applicable sections: 99

(i) Seeking or obtaining medical assistance in good faith 100
for another person who is experiencing a drug overdose; 101

(ii) Experiencing a drug overdose and seeking medical 102
assistance for that overdose or being the subject of another 103
person seeking or obtaining medical assistance for that overdose 104
as described in division (B) (2) (b) of this section. 105

(d) If a person is found to be in violation of any post- 106
release control sanction and if the violation is a result of 107
either of the following, the court or the parole board shall 108
first consider ordering the person's participation or continued 109
participation in a drug treatment program or mitigating the 110
penalty specified in section 2929.141 or 2967.28 of the Revised 111
Code, whichever is applicable, after which the court or the 112
parole board has the discretion either to order the person's 113
participation or continued participation in a drug treatment 114
program or to impose the penalty with the mitigating factor 115
specified in either of those applicable sections: 116

(i) Seeking or obtaining medical assistance in good faith 117
for another person who is experiencing a drug overdose; 118

(ii) Experiencing a drug overdose and seeking medical 119
assistance for that emergency or being the subject of another 120
person seeking or obtaining medical assistance for that overdose 121
as described in division (B) (2) (b) of this section. 122

(e) Nothing in division (B) (2) (b) of this section shall be 123
construed to do any of the following: 124

(i) Limit the admissibility of any evidence in connection 125
with the investigation or prosecution of a crime with regards to 126
a defendant who does not qualify for the protections of division 127
(B) (2) (b) of this section or with regards to any crime other 128
than a minor drug possession offense or a violation of division 129
(C) (1) of section 2925.14 or section 2925.141 of the Revised 130
Code committed by a person who qualifies for protection pursuant 131
to division (B) (2) (b) of this section ~~for a minor drug~~ 132
~~possession offense;~~ 133

(ii) Limit any seizure of evidence or contraband otherwise 134

permitted by law; 135

(iii) Limit or abridge the authority of a peace officer to 136
detain or take into custody a person in the course of an 137
investigation or to effectuate an arrest for any offense except 138
as provided in that division; 139

(iv) Limit, modify, or remove any immunity from liability 140
available pursuant to law in effect prior to the effective date 141
of this amendment to any public agency or to an employee of any 142
public agency. 143

(f) Division (B) (2) (b) of this section does not apply to 144
any person who twice previously has been granted an immunity 145
under division (B) (2) (b) of this section. No person shall be 146
granted an immunity under division (B) (2) (b) of this section 147
more than two times. 148

(g) Nothing in this section shall compel any qualified 149
individual to disclose protected health information in a way 150
that conflicts with the requirements of the "Health Insurance 151
Portability and Accountability Act of 1996," 104 Pub. L. No. 152
191, 110 Stat. 2021, 42 U.S.C. 1320d et seq., as amended, and 153
regulations promulgated by the United States department of 154
health and human services to implement the act or the 155
requirements of 42 C.F.R. Part 2. 156

(C) Whoever violates division (A) of this section is 157
guilty of one of the following: 158

(1) If the drug involved in the violation is a compound, 159
mixture, preparation, or substance included in schedule I or II, 160
with the exception of marihuana, cocaine, L.S.D., heroin, 161
hashish, and controlled substance analogs, whoever violates 162
division (A) of this section is guilty of aggravated possession 163

of drugs. The penalty for the offense shall be determined as 164
follows: 165

(a) Except as otherwise provided in division (C) (1) (b), 166
(c), (d), or (e) of this section, aggravated possession of drugs 167
is a felony of the fifth degree, and division (B) of section 168
2929.13 of the Revised Code applies in determining whether to 169
impose a prison term on the offender. 170

(b) If the amount of the drug involved equals or exceeds 171
the bulk amount but is less than five times the bulk amount, 172
aggravated possession of drugs is a felony of the third degree, 173
and there is a presumption for a prison term for the offense. 174

(c) If the amount of the drug involved equals or exceeds 175
five times the bulk amount but is less than fifty times the bulk 176
amount, aggravated possession of drugs is a felony of the second 177
degree, and the court shall impose as a mandatory prison term 178
one of the prison terms prescribed for a felony of the second 179
degree. 180

(d) If the amount of the drug involved equals or exceeds 181
fifty times the bulk amount but is less than one hundred times 182
the bulk amount, aggravated possession of drugs is a felony of 183
the first degree, and the court shall impose as a mandatory 184
prison term one of the prison terms prescribed for a felony of 185
the first degree. 186

(e) If the amount of the drug involved equals or exceeds 187
one hundred times the bulk amount, aggravated possession of 188
drugs is a felony of the first degree, the offender is a major 189
drug offender, and the court shall impose as a mandatory prison 190
term the maximum prison term prescribed for a felony of the 191
first degree. 192

(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 one of the prison terms prescribed for a felony of the second degree.

(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), 222
(c), (d), (e), (f), or (g) of this section, possession of 223
marihuana is a minor misdemeanor. 224

(b) If the amount of the drug involved equals or exceeds 225
one hundred grams but is less than two hundred grams, possession 226
of marihuana is a misdemeanor of the fourth degree. 227

(c) If the amount of the drug involved equals or exceeds 228
two hundred grams but is less than one thousand grams, 229
possession of marihuana is a felony of the fifth degree, and 230
division (B) of section 2929.13 of the Revised Code applies in 231
determining whether to impose a prison term on the offender. 232

(d) If the amount of the drug involved equals or exceeds 233
one thousand grams but is less than five thousand grams, 234
possession of marihuana is a felony of the third degree, and 235
division (C) of section 2929.13 of the Revised Code applies in 236
determining whether to impose a prison term on the offender. 237

(e) If the amount of the drug involved equals or exceeds 238
five thousand grams but is less than twenty thousand grams, 239
possession of marihuana is a felony of the third degree, and 240
there is a presumption that a prison term shall be imposed for 241
the offense. 242

(f) If the amount of the drug involved equals or exceeds 243
twenty thousand grams but is less than forty thousand grams, 244
possession of marihuana is a felony of the second degree, and 245
the court shall impose a mandatory prison term of five, six, 246
seven, or eight years. 247

(g) If the amount of the drug involved equals or exceeds 248
forty thousand grams, possession of marihuana is a felony of the 249
second degree, and the court shall impose as a mandatory prison 250

term the maximum prison term prescribed for a felony of the 251
second degree. 252

(4) If the drug involved in the violation is cocaine or a 253
compound, mixture, preparation, or substance containing cocaine, 254
whoever violates division (A) of this section is guilty of 255
possession of cocaine. The penalty for the offense shall be 256
determined as follows: 257

(a) Except as otherwise provided in division (C) (4) (b), 258
(c), (d), (e), or (f) of this section, possession of cocaine is 259
a felony of the fifth degree, and division (B) of section 260
2929.13 of the Revised Code applies in determining whether to 261
impose a prison term on the offender. 262

(b) If the amount of the drug involved equals or exceeds 263
five grams but is less than ten grams of cocaine, possession of 264
cocaine is a felony of the fourth degree, and division (B) of 265
section 2929.13 of the Revised Code applies in determining 266
whether to impose a prison term on the offender. 267

(c) If the amount of the drug involved equals or exceeds 268
ten grams but is less than twenty grams of cocaine, possession 269
of cocaine is a felony of the third degree, and, except as 270
otherwise provided in this division, there is a presumption for 271
a prison term for the offense. If possession of cocaine is a 272
felony of the third degree under this division and if the 273
offender two or more times previously has been convicted of or 274
pleaded guilty to a felony drug abuse offense, the court shall 275
impose as a mandatory prison term one of the prison terms 276
prescribed for a felony of the third degree. 277

(d) If the amount of the drug involved equals or exceeds 278
twenty grams but is less than twenty-seven grams of cocaine, 279

possession of cocaine is a felony of the second degree, and the 280
court shall impose as a mandatory prison term one of the prison 281
terms prescribed for a felony of the second degree. 282

(e) If the amount of the drug involved equals or exceeds 283
twenty-seven grams but is less than one hundred grams of 284
cocaine, possession of cocaine is a felony of the first degree, 285
and the court shall impose as a mandatory prison term one of the 286
prison terms prescribed for a felony of the first degree. 287

(f) If the amount of the drug involved equals or exceeds 288
one hundred grams of cocaine, possession of cocaine is a felony 289
of the first degree, the offender is a major drug offender, and 290
the court shall impose as a mandatory prison term the maximum 291
prison term prescribed for a felony of the first degree. 292

(5) If the drug involved in the violation is L.S.D., 293
whoever violates division (A) of this section is guilty of 294
possession of L.S.D. The penalty for the offense shall be 295
determined as follows: 296

(a) Except as otherwise provided in division (C) (5) (b), 297
(c), (d), (e), or (f) of this section, possession of L.S.D. is a 298
felony of the fifth degree, and division (B) of section 2929.13 299
of the Revised Code applies in determining whether to impose a 300
prison term on the offender. 301

(b) If the amount of L.S.D. involved equals or exceeds ten 302
unit doses but is less than fifty unit doses of L.S.D. in a 303
solid form or equals or exceeds one gram but is less than five 304
grams of L.S.D. in a liquid concentrate, liquid extract, or 305
liquid distillate form, possession of L.S.D. is a felony of the 306
fourth degree, and division (C) of section 2929.13 of the 307
Revised Code applies in determining whether to impose a prison 308

term on the offender. 309

(c) If the amount of L.S.D. involved equals or exceeds 310
fifty unit doses, but is less than two hundred fifty unit doses 311
of L.S.D. in a solid form or equals or exceeds five grams but is 312
less than twenty-five grams of L.S.D. in a liquid concentrate, 313
liquid extract, or liquid distillate form, possession of L.S.D. 314
is a felony of the third degree, and there is a presumption for 315
a prison term for the offense. 316

(d) If the amount of L.S.D. involved equals or exceeds two 317
hundred fifty unit doses but is less than one thousand unit 318
doses of L.S.D. in a solid form or equals or exceeds twenty-five 319
grams but is less than one hundred grams of L.S.D. in a liquid 320
concentrate, liquid extract, or liquid distillate form, 321
possession of L.S.D. is a felony of the second degree, and the 322
court shall impose as a mandatory prison term one of the prison 323
terms prescribed for a felony of the second degree. 324

(e) If the amount of L.S.D. involved equals or exceeds one 325
thousand unit doses but is less than five thousand unit doses of 326
L.S.D. in a solid form or equals or exceeds one hundred grams 327
but is less than five hundred grams of L.S.D. in a liquid 328
concentrate, liquid extract, or liquid distillate form, 329
possession of L.S.D. is a felony of the first degree, and the 330
court shall impose as a mandatory prison term one of the prison 331
terms prescribed for a felony of the first degree. 332

(f) If the amount of L.S.D. involved equals or exceeds 333
five thousand unit doses of L.S.D. in a solid form or equals or 334
exceeds five hundred grams of L.S.D. in a liquid concentrate, 335
liquid extract, or liquid distillate form, possession of L.S.D. 336
is a felony of the first degree, the offender is a major drug 337
offender, and the court shall impose as a mandatory prison term 338

the maximum prison term prescribed for a felony of the first 339
degree. 340

(6) If the drug involved in the violation is heroin or a 341
compound, mixture, preparation, or substance containing heroin, 342
whoever violates division (A) of this section is guilty of 343
possession of heroin. The penalty for the offense shall be 344
determined as follows: 345

(a) Except as otherwise provided in division (C) (6) (b), 346
(c), (d), (e), or (f) of this section, possession of heroin is a 347
felony of the fifth degree, and division (B) of section 2929.13 348
of the Revised Code applies in determining whether to impose a 349
prison term on the offender. 350

(b) If the amount of the drug involved equals or exceeds 351
ten unit doses but is less than fifty unit doses or equals or 352
exceeds one gram but is less than five grams, possession of 353
heroin is a felony of the fourth degree, and division (C) of 354
section 2929.13 of the Revised Code applies in determining 355
whether to impose a prison term on the offender. 356

(c) If the amount of the drug involved equals or exceeds 357
fifty unit doses but is less than one hundred unit doses or 358
equals or exceeds five grams but is less than ten grams, 359
possession of heroin is a felony of the third degree, and there 360
is a presumption for a prison term for the offense. 361

(d) If the amount of the drug involved equals or exceeds 362
one hundred unit doses but is less than five hundred unit doses 363
or equals or exceeds ten grams but is less than fifty grams, 364
possession of heroin is a felony of the second degree, and the 365
court shall impose as a mandatory prison term one of the prison 366
terms prescribed for a felony of the second degree. 367

(e) If the amount of the drug involved equals or exceeds 368
five hundred unit doses but is less than one thousand unit doses 369
or equals or exceeds fifty grams but is less than one hundred 370
grams, possession of heroin is a felony of the first degree, and 371
the court shall impose as a mandatory prison term one of the 372
prison terms prescribed for a felony of the first degree. 373

(f) If the amount of the drug involved equals or exceeds 374
one thousand unit doses or equals or exceeds one hundred grams, 375
possession of heroin is a felony of the first degree, the 376
offender is a major drug offender, and the court shall impose as 377
a mandatory prison term the maximum prison term prescribed for a 378
felony of the first degree. 379

(7) If the drug involved in the violation is hashish or a 380
compound, mixture, preparation, or substance containing hashish, 381
whoever violates division (A) of this section is guilty of 382
possession of hashish. The penalty for the offense shall be 383
determined as follows: 384

(a) Except as otherwise provided in division (C) (7) (b), 385
(c), (d), (e), (f), or (g) of this section, possession of 386
hashish is a minor misdemeanor. 387

(b) If the amount of the drug involved equals or exceeds 388
five grams but is less than ten grams of hashish in a solid form 389
or equals or exceeds one gram but is less than two grams of 390
hashish in a liquid concentrate, liquid extract, or liquid 391
distillate form, possession of hashish is a misdemeanor of the 392
fourth degree. 393

(c) If the amount of the drug involved equals or exceeds 394
ten grams but is less than fifty grams of hashish in a solid 395
form or equals or exceeds two grams but is less than ten grams 396

of hashish in a liquid concentrate, liquid extract, or liquid 397
distillate form, possession of hashish is a felony of the fifth 398
degree, and division (B) of section 2929.13 of the Revised Code 399
applies in determining whether to impose a prison term on the 400
offender. 401

(d) If the amount of the drug involved equals or exceeds 402
fifty grams but is less than two hundred fifty grams of hashish 403
in a solid form or equals or exceeds ten grams but is less than 404
fifty grams of hashish in a liquid concentrate, liquid extract, 405
or liquid distillate form, possession of hashish is a felony of 406
the third degree, and division (C) of section 2929.13 of the 407
Revised Code applies in determining whether to impose a prison 408
term on the offender. 409

(e) If the amount of the drug involved equals or exceeds 410
two hundred fifty grams but is less than one thousand grams of 411
hashish in a solid form or equals or exceeds fifty grams but is 412
less than two hundred grams of hashish in a liquid concentrate, 413
liquid extract, or liquid distillate form, possession of hashish 414
is a felony of the third degree, and there is a presumption that 415
a prison term shall be imposed for the offense. 416

(f) If the amount of the drug involved equals or exceeds 417
one thousand grams but is less than two thousand grams of 418
hashish in a solid form or equals or exceeds two hundred grams 419
but is less than four hundred grams of hashish in a liquid 420
concentrate, liquid extract, or liquid distillate form, 421
possession of hashish is a felony of the second degree, and the 422
court shall impose a mandatory prison term of five, six, seven, 423
or eight years. 424

(g) If the amount of the drug involved equals or exceeds 425
two thousand grams of hashish in a solid form or equals or 426

exceeds four hundred grams of hashish in a liquid concentrate, 427
liquid extract, or liquid distillate form, possession of hashish 428
is a felony of the second degree, and the court shall impose as 429
a mandatory prison term the maximum prison term prescribed for a 430
felony of the second degree. 431

(8) If the drug involved is a controlled substance analog 432
or compound, mixture, preparation, or substance that contains a 433
controlled substance analog, whoever violates division (A) of 434
this section is guilty of possession of a controlled substance 435
analog. The penalty for the offense shall be determined as 436
follows: 437

(a) Except as otherwise provided in division (C) (8) (b), 438
(c), (d), (e), or (f) of this section, possession of a 439
controlled substance analog is a felony of the fifth degree, and 440
division (B) of section 2929.13 of the Revised Code applies in 441
determining whether to impose a prison term on the offender. 442

(b) If the amount of the drug involved equals or exceeds 443
ten grams but is less than twenty grams, possession of a 444
controlled substance analog is a felony of the fourth degree, 445
and there is a presumption for a prison term for the offense. 446

(c) If the amount of the drug involved equals or exceeds 447
twenty grams but is less than thirty grams, possession of a 448
controlled substance analog is a felony of the third degree, and 449
there is a presumption for a prison term for the offense. 450

(d) If the amount of the drug involved equals or exceeds 451
thirty grams but is less than forty grams, possession of a 452
controlled substance analog is a felony of the second degree, 453
and the court shall impose as a mandatory prison term one of the 454
prison terms prescribed for a felony of the second degree. 455

(e) If the amount of the drug involved equals or exceeds 456
forty grams but is less than fifty grams, possession of a 457
controlled substance analog is a felony of the first degree, and 458
the court shall impose as a mandatory prison term one of the 459
prison terms prescribed for a felony of the first degree. 460

(f) If the amount of the drug involved equals or exceeds 461
fifty grams, possession of a controlled substance analog is a 462
felony of the first degree, the offender is a major drug 463
offender, and the court shall impose as a mandatory prison term 464
the maximum prison term prescribed for a felony of the first 465
degree. 466

(D) Arrest or conviction for a minor misdemeanor violation 467
of this section does not constitute a criminal record and need 468
not be reported by the person so arrested or convicted in 469
response to any inquiries about the person's criminal record, 470
including any inquiries contained in any application for 471
employment, license, or other right or privilege, or made in 472
connection with the person's appearance as a witness. 473

(E) In addition to any prison term or jail term authorized 474
or required by division (C) of this section and sections 475
2929.13, 2929.14, 2929.22, 2929.24, and 2929.25 of the Revised 476
Code and in addition to any other sanction that is imposed for 477
the offense under this section, sections 2929.11 to 2929.18, or 478
sections 2929.21 to 2929.28 of the Revised Code, the court that 479
sentences an offender who is convicted of or pleads guilty to a 480
violation of division (A) of this section may suspend the 481
offender's driver's or commercial driver's license or permit for 482
not more than five years. However, if the offender pleaded 483
guilty to or was convicted of a violation of section 4511.19 of 484
the Revised Code or a substantially similar municipal ordinance 485

or the law of another state or the United States arising out of 486
the same set of circumstances as the violation, the court shall 487
suspend the offender's driver's or commercial driver's license 488
or permit for not more than five years. If applicable, the court 489
also shall do the following: 490

(1) (a) If the violation is a felony of the first, second, 491
or third degree, the court shall impose upon the offender the 492
mandatory fine specified for the offense under division (B) (1) 493
of section 2929.18 of the Revised Code unless, as specified in 494
that division, the court determines that the offender is 495
indigent. 496

(b) Notwithstanding any contrary provision of section 497
3719.21 of the Revised Code, the clerk of the court shall pay a 498
mandatory fine or other fine imposed for a violation of this 499
section pursuant to division (A) of section 2929.18 of the 500
Revised Code in accordance with and subject to the requirements 501
of division (F) of section 2925.03 of the Revised Code. The 502
agency that receives the fine shall use the fine as specified in 503
division (F) of section 2925.03 of the Revised Code. 504

(c) If a person is charged with a violation of this 505
section that is a felony of the first, second, or third degree, 506
posts bail, and forfeits the bail, the clerk shall pay the 507
forfeited bail pursuant to division (E) (1) (b) of this section as 508
if it were a mandatory fine imposed under division (E) (1) (a) of 509
this section. 510

(2) If the offender is a professionally licensed person, 511
in addition to any other sanction imposed for a violation of 512
this section, the court immediately shall comply with section 513
2925.38 of the Revised Code. 514

(F) It is an affirmative defense, as provided in section 515
2901.05 of the Revised Code, to a charge of a fourth degree 516
felony violation under this section that the controlled 517
substance that gave rise to the charge is in an amount, is in a 518
form, is prepared, compounded, or mixed with substances that are 519
not controlled substances in a manner, or is possessed under any 520
other circumstances, that indicate that the substance was 521
possessed solely for personal use. Notwithstanding any contrary 522
provision of this section, if, in accordance with section 523
2901.05 of the Revised Code, an accused who is charged with a 524
fourth degree felony violation of division (C) (2), (4), (5), or 525
(6) of this section sustains the burden of going forward with 526
evidence of and establishes by a preponderance of the evidence 527
the affirmative defense described in this division, the accused 528
may be prosecuted for and may plead guilty to or be convicted of 529
a misdemeanor violation of division (C) (2) of this section or a 530
fifth degree felony violation of division (C) (4), (5), or (6) of 531
this section respectively. 532

(G) When a person is charged with possessing a bulk amount 533
or multiple of a bulk amount, division (E) of section 2925.03 of 534
the Revised Code applies regarding the determination of the 535
amount of the controlled substance involved at the time of the 536
offense. 537

(H) It is an affirmative defense to a charge of possession 538
of a controlled substance analog under division (C) (8) of this 539
section that the person charged with violating that offense 540
obtained, possessed, or used an item described in division (HH) 541
(2) (a), (b), or (c) of section 3719.01 of the Revised Code. 542

(I) Any offender who received a mandatory suspension of 543
the offender's driver's or commercial driver's license or permit 544

under this section prior to ~~the effective date of this amendment~~ 545
September 13, 2016, may file a motion with the sentencing court 546
requesting the termination of the suspension. However, an 547
offender who pleaded guilty to or was convicted of a violation 548
of section 4511.19 of the Revised Code or a substantially 549
similar municipal ordinance or law of another state or the 550
United States that arose out of the same set of circumstances as 551
the violation for which the offender's license or permit was 552
suspended under this section shall not file such a motion. 553

Upon the filing of a motion under division (I) of this 554
section, the sentencing court, in its discretion, may terminate 555
the suspension. 556

Sec. 2925.14. (A) As used in this section, "drug 557
paraphernalia" means any equipment, product, or material of any 558
kind that is used by the offender, intended by the offender for 559
use, or designed for use, in propagating, cultivating, growing, 560
harvesting, manufacturing, compounding, converting, producing, 561
processing, preparing, testing, analyzing, packaging, 562
repackaging, storing, containing, concealing, injecting, 563
ingesting, inhaling, or otherwise introducing into the human 564
body, a controlled substance in violation of this chapter. "Drug 565
paraphernalia" includes, but is not limited to, any of the 566
following equipment, products, or materials that are used by the 567
offender, intended by the offender for use, or designed by the 568
offender for use, in any of the following manners: 569

(1) A kit for propagating, cultivating, growing, or 570
harvesting any species of a plant that is a controlled substance 571
or from which a controlled substance can be derived; 572

(2) A kit for manufacturing, compounding, converting, 573
producing, processing, or preparing a controlled substance; 574

(3) Any object, instrument, or device for manufacturing,	575
compounding, converting, producing, processing, or preparing	576
methamphetamine;	577
(4) An isomerization device for increasing the potency of	578
any species of a plant that is a controlled substance;	579
(5) Testing equipment for identifying, or analyzing the	580
strength, effectiveness, or purity of, a controlled substance;	581
(6) A scale or balance for weighing or measuring a	582
controlled substance;	583
(7) A diluent or adulterant, such as quinine	584
hydrochloride, mannitol, mannite, dextrose, or lactose, for	585
cutting a controlled substance;	586
(8) A separation gin or sifter for removing twigs and	587
seeds from, or otherwise cleaning or refining, marihuana;	588
(9) A blender, bowl, container, spoon, or mixing device	589
for compounding a controlled substance;	590
(10) A capsule, balloon, envelope, or container for	591
packaging small quantities of a controlled substance;	592
(11) A container or device for storing or concealing a	593
controlled substance;	594
(12) A hypodermic syringe, needle, or instrument for	595
parenterally injecting a controlled substance into the human	596
body;	597
(13) An object, instrument, or device for ingesting,	598
inhaling, or otherwise introducing into the human body,	599
marihuana, cocaine, hashish, or hashish oil, such as a metal,	600
wooden, acrylic, glass, stone, plastic, or ceramic pipe, with or	601

without a screen, permanent screen, hashish head, or punctured 602
metal bowl; water pipe; carburetion tube or device; smoking or 603
carburetion mask; roach clip or similar object used to hold 604
burning material, such as a marihuana cigarette, that has become 605
too small or too short to be held in the hand; miniature cocaine 606
spoon, or cocaine vial; chamber pipe; carburetor pipe; electric 607
pipe; air driver pipe; chillum; bong; or ice pipe or chiller. 608

(B) In determining if any equipment, product, or material 609
is drug paraphernalia, a court or law enforcement officer shall 610
consider, in addition to other relevant factors, the following: 611

(1) Any statement by the owner, or by anyone in control, 612
of the equipment, product, or material, concerning its use; 613

(2) The proximity in time or space of the equipment, 614
product, or material, or of the act relating to the equipment, 615
product, or material, to a violation of any provision of this 616
chapter; 617

(3) The proximity of the equipment, product, or material 618
to any controlled substance; 619

(4) The existence of any residue of a controlled substance 620
on the equipment, product, or material; 621

(5) Direct or circumstantial evidence of the intent of the 622
owner, or of anyone in control, of the equipment, product, or 623
material, to deliver it to any person whom the owner or person 624
in control of the equipment, product, or material knows intends 625
to use the object to facilitate a violation of any provision of 626
this chapter. A finding that the owner, or anyone in control, of 627
the equipment, product, or material, is not guilty of a 628
violation of any other provision of this chapter does not 629
prevent a finding that the equipment, product, or material was 630

intended or designed by the offender for use as drug paraphernalia. 631
632

(6) Any oral or written instruction provided with the equipment, product, or material concerning its use; 633
634

(7) Any descriptive material accompanying the equipment, product, or material and explaining or depicting its use; 635
636

(8) National or local advertising concerning the use of the equipment, product, or material; 637
638

(9) The manner and circumstances in which the equipment, product, or material is displayed for sale; 639
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(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; 641
642
643

(11) The existence and scope of legitimate uses of the equipment, product, or material in the community; 644
645

(12) Expert testimony concerning the use of the equipment, product, or material. 646
647

(C) (1) Subject to ~~division~~ divisions (D) (2) and (3) of this section, no person shall knowingly use, or possess with purpose to use, drug paraphernalia. 648
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(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. 651
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(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 655
656
657

state, if the person knows that the purpose of the advertisement 658
is to promote the illegal sale in this state of the equipment, 659
product, or material that the offender intended or designed for 660
use as drug paraphernalia. 661

(D) (1) This section does not apply to manufacturers, 662
licensed health professionals authorized to prescribe drugs, 663
pharmacists, owners of pharmacies, and other persons whose 664
conduct is in accordance with Chapters 3719., 4715., 4723., 665
4729., 4730., 4731., and 4741. of the Revised Code. This section 666
shall not be construed to prohibit the possession or use of a 667
hypodermic as authorized by section 3719.172 of the Revised 668
Code. 669

(2) Division (C) (1) of this section does not apply to a 670
person's use, or possession with purpose to use, any drug 671
paraphernalia that is equipment, a product, or material of any 672
kind that is used by the person, intended by the person for use, 673
or designed for use in storing, containing, concealing, 674
injecting, ingesting, inhaling, or otherwise introducing into 675
the human body marihuana. 676

(3) Division (B) (2) of section 2925.11 of the Revised Code 677
applies with respect to a violation of division (C) (1) of this 678
section when a person seeks or obtains medical assistance for 679
another person who is experiencing a drug overdose, a person 680
experiences a drug overdose and seeks medical assistance for 681
that overdose, or a person is the subject of another person 682
seeking or obtaining medical assistance for that overdose. 683

(E) Notwithstanding Chapter 2981. of the Revised Code, any 684
drug paraphernalia that was used, possessed, sold, or 685
manufactured in a violation of this section shall be seized, 686
after a conviction for that violation shall be forfeited, and 687

upon forfeiture shall be disposed of pursuant to division (B) of 688
section 2981.12 of the Revised Code. 689

(F) (1) Whoever violates division (C) (1) of this section is 690
guilty of illegal use or possession of drug paraphernalia, a 691
misdemeanor of the fourth degree. 692

(2) Except as provided in division (F) (3) of this section, 693
whoever violates division (C) (2) of this section is guilty of 694
dealing in drug paraphernalia, a misdemeanor of the second 695
degree. 696

(3) Whoever violates division (C) (2) of this section by 697
selling drug paraphernalia to a juvenile is guilty of selling 698
drug paraphernalia to juveniles, a misdemeanor of the first 699
degree. 700

(4) Whoever violates division (C) (3) of this section is 701
guilty of illegal advertising of drug paraphernalia, a 702
misdemeanor of the second degree. 703

(G) (1) In addition to any other sanction imposed upon an 704
offender for a violation of this section, the court may suspend 705
for not more than five years the offender's driver's or 706
commercial driver's license or permit. However, if the offender 707
pleaded guilty to or was convicted of a violation of section 708
4511.19 of the Revised Code or a substantially similar municipal 709
ordinance or the law of another state or the United States 710
arising out of the same set of circumstances as the violation, 711
the court shall suspend the offender's driver's or commercial 712
driver's license or permit for not more than five years. If the 713
offender is a professionally licensed person, in addition to any 714
other sanction imposed for a violation of this section, the 715
court immediately shall comply with section 2925.38 of the 716

Revised Code. 717

(2) Any offender who received a mandatory suspension of 718
the offender's driver's or commercial driver's license or permit 719
under this section prior to ~~the effective date of this amendment~~ 720
September 13, 2016, may file a motion with the sentencing court 721
requesting the termination of the suspension. However, an 722
offender who pleaded guilty to or was convicted of a violation 723
of section 4511.19 of the Revised Code or a substantially 724
similar municipal ordinance or law of another state or the 725
United States that arose out of the same set of circumstances as 726
the violation for which the offender's license or permit was 727
suspended under this section shall not file such a motion. 728

Upon the filing of a motion under division (G)(2) of this 729
section, the sentencing court, in its discretion, may terminate 730
the suspension. 731

Sec. 2925.141. (A) As used in this section, "drug 732
paraphernalia" has the same meaning as in section 2925.14 of the 733
Revised Code. 734

(B) In determining if any equipment, product, or material 735
is drug paraphernalia, a court or law enforcement officer shall 736
consider, in addition to other relevant factors, all factors 737
identified in division (B) of section 2925.14 of the Revised 738
Code. 739

(C) No person shall knowingly use, or possess with purpose 740
to use, any drug paraphernalia that is equipment, a product, or 741
material of any kind that is used by the person, intended by the 742
person for use, or designed for use in storing, containing, 743
concealing, injecting, ingesting, inhaling, or otherwise 744
introducing into the human body marihuana. 745

(D) This section does not apply to any person identified 746
in division (D) (1) of section 2925.14 of the Revised Code, and 747
it shall not be construed to prohibit the possession or use of a 748
hypodermic as authorized by section 3719.172 of the Revised 749
Code. 750

(E) (1) Division (E) of section 2925.14 of the Revised Code 751
applies with respect to any drug paraphernalia that was used or 752
possessed in violation of this section. 753

(2) Division (B) (2) of section 2925.11 of the Revised Code 754
applies with respect to a violation of this section when a 755
person seeks or obtains medical assistance for another person 756
who is experiencing a drug overdose, a person experiences a drug 757
overdose and seeks medical assistance for that overdose, or a 758
person is the subject of another person seeking or obtaining 759
medical assistance for that overdose. 760

(F) Whoever violates division (C) of this section is 761
guilty of illegal use or possession of marihuana drug 762
paraphernalia, a minor misdemeanor. 763

(G) (1) In addition to any other sanction imposed upon an 764
offender for a violation of this section, the court may suspend 765
for not more than five years the offender's driver's or 766
commercial driver's license or permit. However, if the offender 767
pleaded guilty to or was convicted of a violation of section 768
4511.19 of the Revised Code or a substantially similar municipal 769
ordinance or the law of another state or the United States 770
arising out of the same set of circumstances as the violation, 771
the court shall suspend the offender's driver's or commercial 772
driver's license or permit for not more than five years. If the 773
offender is a professionally licensed person, in addition to any 774
other sanction imposed for a violation of this section, the 775

court immediately shall comply with section 2925.38 of the Revised Code.

(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 ~~the effective date of this amendment~~ 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 (G) (2) of this section, the sentencing court, in its discretion, may terminate the suspension.

Section 2. That existing sections 2925.11, 2925.14, and 2925.141 of the Revised Code are hereby repealed.

Section 3. Section 2925.11 of the Revised Code is presented in this act as a composite of the section as amended by Sub. H.B. 110, H.B. 171, and Sub. S.B. 204, all of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.