

AN ACT

To amend section 2901.21 of the Revised Code relative to the criminal liability of a person who is intoxicated.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 2901.21 of the Revised Code be amended to read as follows:

Sec. 2901.21. (A) Except as provided in division (B) of this section, a person is not guilty of an offense unless both of the following apply:

(1) ~~His~~ The person's liability is based on conduct ~~which that~~ includes either a voluntary act, or an omission to perform an act or duty ~~which he that~~ the person is capable of performing;

(2) ~~He~~ The person has the requisite degree of culpability for each element as to which a culpable mental state is specified by the section defining the offense.

(B) When the section defining an offense does not specify any degree of culpability, and plainly indicates a purpose to impose strict criminal liability for the conduct described in ~~such the~~ section, then culpability is not required for a person to be guilty of the offense. When the section neither specifies culpability nor plainly indicates a purpose to impose strict liability, recklessness is sufficient culpability to commit the offense.

(C) VOLUNTARY INTOXICATION MAY NOT BE TAKEN INTO CONSIDERATION IN DETERMINING THE EXISTENCE OF A MENTAL STATE THAT IS AN ELEMENT OF A CRIMINAL OFFENSE. VOLUNTARY INTOXICATION DOES NOT RELIEVE A PERSON OF A DUTY TO ACT IF FAILURE TO ACT CONSTITUTES A CRIMINAL OFFENSE. EVIDENCE THAT A PERSON WAS VOLUNTARILY INTOXICATED MAY BE ADMISSIBLE TO SHOW WHETHER OR NOT THE PERSON WAS PHYSICALLY CAPABLE OF PERFORMING THE ACT WITH WHICH THE PERSON IS CHARGED.

(D) As used in this section:

(1) Possession is a voluntary act if the possessor knowingly procured or received the thing possessed, or was aware of ~~his~~ the possessor's control ~~thereof of the thing possessed~~ for a sufficient time to have ended ~~his~~ possession.

(2) Reflexes, convulsions, body movements during unconsciousness or sleep, and body movements that are not otherwise a product of the actor's volition, are involuntary acts.

(3) "Culpability" means purpose, knowledge, recklessness, or negligence, as defined in section 2901.22 of the Revised Code.

(4) "Intoxication" includes, but is not limited to, intoxication resulting from the ingestion of alcohol, a drug, or alcohol and a drug.

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SECTION 2. That existing section 2901.21 of the Revised Code is hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____