

AN ACT

To amend sections 2917.31 and 2917.32 and to enact section 2917.33 of the Revised Code to increase the penalties for inducing panic and making false alarms involving a purported, threatened, or actual use of a weapon of mass destruction and to prohibit unlawful possession or use of a hoax weapon of mass destruction.

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

SECTION 1. That sections 2917.31 and 2917.32 be amended and section 2917.33 of the Revised Code be enacted to read as follows:

Sec. 2917.31. (A) No person shall cause the evacuation of any public place, or otherwise cause serious public inconvenience or alarm, by doing any of the following:

(1) Initiating or circulating a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that such report or warning is false;

(2) Threatening to commit any offense of violence;

(3) Committing any offense, with reckless disregard of the likelihood that its commission will cause serious public inconvenience or alarm.

(B) Division (A)(1) of this section does not apply to any person conducting an authorized fire or emergency drill.

(C)(1) Whoever violates this section is guilty of inducing panic.

(2) Except as otherwise provided in division (C)(3), (4), ~~or (5), (6), (7), (8), or (9)~~ of this section, inducing panic is a misdemeanor of the first degree.

(3) Except as otherwise provided in division (C)(4) ~~or (5), (6), (7), (8), or (9)~~ of this section, if a violation of this section results in physical harm to any person, inducing panic is a felony of the fourth degree.

(4) Except as otherwise provided in division (C)(5), ~~(6), (7), (8), or (9)~~ of this section, if a violation of this section results in economic harm, the penalty shall be determined as follows:

(a) If the violation results in economic harm of five hundred dollars or more but less than five thousand dollars and if division (C)(3) of this section does not apply, inducing panic is a felony of the fifth degree.

(b) If the violation results in economic harm of five thousand dollars or more but less than one hundred thousand dollars, inducing panic is a felony of the fourth degree.

(c) If the violation results in economic harm of one hundred thousand dollars or more, inducing panic is a felony of the third degree.

~~(5)(a) Except as otherwise provided in division (C)(5)(b) or (c)(6), (7), (8), or (9) of this section, if the public place involved in a violation of division (A)(1) of this section is a school, the penalty shall be determined as follows:~~

~~(a) Except as otherwise provided in division (C)(5)(b) or (c) of this section, inducing panic is a felony of the fourth degree.~~

~~(b) If the public place involved in a violation of division (A)(1) of this section is a school and if the violation results in physical harm to any person and if division (C)(5)(c)(iii) of this section does not apply, inducing panic is a felony of the third degree.~~

~~(c) If the public place involved in a violation of division (A)(1) of this section is a school and if the violation results in economic harm, the penalty shall be determined as follows:~~

~~(i) If the violation results in economic harm of five hundred dollars or more but less than five thousand dollars and if division (C)(5)(b) of this section does not apply, inducing panic is a felony of the fourth degree.~~

~~(ii) If the violation results in economic harm of five thousand dollars or more but less than one hundred thousand dollars, inducing panic is a felony of the third degree.~~

~~(iii) If the violation results in economic harm of one hundred thousand dollars or more, inducing panic is a felony of the second degree.~~

~~(6) If the violation pertains to a purported, threatened, or actual use of a weapon of mass destruction, and except as otherwise provided in division (C)(7), (8), or (9) of this section, inducing panic is a felony of the fourth degree.~~

~~(7) If the violation pertains to a purported, threatened, or actual use of a weapon of mass destruction, and except as otherwise provided in division (C)(9)(a) or (c) of this section, if a violation of this section results in physical harm to any person, inducing panic is a felony of the third degree.~~

~~(8) If the violation pertains to a purported, threatened, or actual use of a weapon of mass destruction, and except as otherwise provided in division (C)(9)(a) or (c) of this section, if a violation of this section results in~~

economic harm of one hundred thousand dollars or more, inducing panic is a felony of the third degree.

(9)(a) If the public place involved in a violation of division (A)(1) of this section is a school, if the violation pertains to a purported, threatened, or actual use of a weapon of mass destruction, and if the violation results in physical harm to any person, inducing panic is a felony of the second degree.

(b) If the public place involved in a violation of division (A)(1) of this section is a school, if the violation pertains to a purported, threatened, or actual use of a weapon of mass destruction, and if the violation results in economic harm of five thousand dollars or more but less than one hundred thousand dollars, and if division (C)(9)(a) of this section does not apply, inducing panic is a felony of the third degree.

(c) If the public place involved in a violation of division (A)(1) of this section is a school, if the violation pertains to a purported, threatened, or actual use of a weapon of mass destruction, and if the violation results in economic harm of one hundred thousand dollars or more, inducing panic is a felony of the second degree.

(D)(1) It is not a defense to a charge under this section that pertains to a purported or threatened use of a weapon of mass destruction that the offender did not possess or have the ability to use a weapon of mass destruction or that what was represented to be a weapon of mass destruction was not a weapon of mass destruction.

(2) Any act that is a violation of this section and any other section of the Revised Code may be prosecuted under this section, the other section, or both sections.

(E) As used in this section:

(1) "Economic harm" means all any of the following:

(a) All direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. "Economic harm" as described in this division includes, but is not limited to, all of the following:

(a)(i) All wages, salaries, or other compensation lost as a result of the criminal conduct;

(b)(ii) The cost of all wages, salaries, or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;

(c)(iii) The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;

(d)(iv) The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.

(b) All costs incurred by the state or any political subdivision as a result of, or in making any response to, the criminal conduct that constituted the violation of this section or section 2917.32 of the Revised Code, including, but not limited to, all costs so incurred by any law enforcement officers, firefighters, rescue personnel, or emergency medical services personnel of the state or the political subdivision.

(2) "School" means any school operated by a board of education or any school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted at the time a violation of this section is committed.

(3) "Weapon of mass destruction" means any of the following:

(a) Any weapon that is designed or intended to cause death or serious physical harm through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;

(b) Any weapon involving a disease organism or biological agent;

(c) Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life;

(d) Any of the following, except to the extent that the item or device in question is expressly excepted from the definition of "destructive device" pursuant to 18 U.S.C. 921(a)(4) and regulations issued under that section:

(i) Any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or similar device;

(ii) Any combination of parts either designed or intended for use in converting any item or device into any item or device described in division (E)(3)(d)(i) of this section and from which an item or device described in that division may be readily assembled.

(4) "Biological agent" has the same meaning as in section 2917.33 of the Revised Code.

(5) "Emergency medical services personnel" has the same meaning as in section 2133.21 of the Revised Code.

Sec. 2917.32. (A) No person shall do any of the following:

(1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm;

(2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property;

(3) Report to any law enforcement agency an alleged offense or other incident within its concern, knowing that such offense did not occur.

(B) This section does not apply to any person conducting an authorized fire or emergency drill.

(C)(1) Whoever violates this section is guilty of making false alarms. ~~Except~~

(2) Except as otherwise provided in this division (C)(3), (4), (5), or (6) of this section, making false alarms is a misdemeanor of the first degree. If

(3) Except as otherwise provided in division (C)(4) of this section, if a violation of this section results in economic harm of five hundred dollars or more but less than five thousand dollars, making false alarms is a felony of the fifth degree. If

(4) If a violation of this section pertains to a purported, threatened, or actual use of a weapon of mass destruction, making false alarms is a felony of the third degree.

(5) If a violation of this section results in economic harm of five thousand dollars or more but less than one hundred thousand dollars and if division (C)(4) of this section does not apply, making false alarms is a felony of the fourth degree. If

(6) If a violation of this section results in economic harm of one hundred thousand dollars or more, making false alarms is a felony of the third degree.

(D)(1) It is not a defense to a charge under this section that pertains to a purported or threatened use of a weapon of mass destruction that the offender did not possess or have the ability to use a weapon of mass destruction or that what was represented to be a weapon of mass destruction was not a weapon of mass destruction.

(2) Any act that is a violation of this section and any other section of the Revised Code may be prosecuted under this section, the other section, or both sections.

(E) As used in this section, "economic harm" means all direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. "Economic harm" includes, but is not limited to, all of the following:

(1) All wages, salaries, or other compensation lost as a result of the criminal conduct;

(2) The cost of all wages, salaries, or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;

(3) The overhead costs incurred for the time that a business is shut down

~~as a result of the criminal conduct;~~

~~(4) The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct and "weapon of mass destruction" have the same meanings as in section 2917.31 of the Revised Code.~~

Sec. 2917.33. (A) No person, without privilege to do so, shall manufacture, possess, sell, deliver, display, use, threaten to use, attempt to use, conspire to use, or make readily accessible to others a hoax weapon of mass destruction with the intent to deceive or otherwise mislead one or more persons into believing that the hoax weapon of mass destruction will cause terror, bodily harm, or property damage.

(B) This section does not apply to any member or employee of the armed forces of the United States, a governmental agency of this state, another state, or the United States, or a private entity, to whom all of the following apply:

(1) The member or employee otherwise is engaged in lawful activity within the scope of the member's or employee's duties or employment.

(2) The member or employee otherwise is duly authorized or licensed to manufacture, possess, sell, deliver, display, or otherwise engage in activity as described in division (A) of this section.

(3) The member or employee is in compliance with applicable federal and state law.

(C) Whoever violates this section is guilty of unlawful possession or use of a hoax weapon of mass destruction, a felony of the fourth degree.

(D) Any act that is a violation of this section and any other section of the Revised Code may be prosecuted under this section, the other section, or both sections.

(E) As used in this section:

(1) "Hoax weapon of mass destruction" means any device or object that by its design, construction, content, or characteristics appears to be, appears to constitute, or appears to contain, or is represented as being, constituting, or containing, a weapon of mass destruction and to which either of the following applies:

(a) It is, in fact, an inoperative facsimile, imitation, counterfeit, or representation of a weapon of mass destruction that does not meet the definition of a weapon of mass destruction.

(b) It does not actually contain or constitute a weapon, biological agent, toxin, vector, or delivery system.

(2) "Biological agent" means any microorganism, virus, infectious substance, or biological product that may be engineered through

biotechnology, or any naturally occurring or bioengineered component of any microorganism, virus, infectious substance, or biological product that may be engineered through biotechnology, capable of causing any of the following:

(a) Death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(b) Deterioration of food, water, equipment, supplies, or material of any kind;

(c) Deleterious alteration of the environment.

(3) "Toxin" means the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances or a recombinant molecule, whatever its origin or method of reproduction, including, but not limited to, any of the following:

(a) Any poisonous substance or biological product that may be engineered through biotechnology and that is produced by a living organism;

(b) Any poisonous isomer or biological product, homolog, or derivative of any substance or product described in division (D)(3)(a) of this section.

(4) "Delivery system" means any of the following:

(a) Any apparatus, equipment, device, or means of delivery specifically designed to deliver or disseminate a biological agent, toxin, or vector;

(b) Any vector.

(5) "Vector" means a living organism or molecule, including a recombinant molecule or biological product that may be engineered through biotechnology, capable of carrying a biological agent or toxin to a host.

(6) "Weapon of mass destruction" has the same meaning as in section 2917.31 of the Revised Code.

SECTION 2. That existing sections 2917.31 and 2917.32 of the Revised Code are hereby repealed.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. H. B. No. 411

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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 _____