

As Introduced

135th General Assembly

Regular Session

2023-2024

H. B. No. 168

Representatives Callender, Weinstein

**Cosponsors: Representatives Grim, Humphrey, Brent, Galonski, Miranda, Forhan,
Brewer, Upchurch, Brown, Isaacsohn**

A BILL

To amend sections 109.572, 2925.02, 2925.03, 1
2925.04, 2925.11, 2925.12, 2925.14, 2925.36, 2
2925.38, 3796.01, 3796.02, 3796.03, 3796.032, 3
3796.05, 3796.06, 3796.061, 3796.07, 3796.08, 4
3796.09, 3796.10, 3796.11, 3796.12, 3796.13, 5
3796.14, 3796.15, 3796.16, 3796.17, 3796.18, 6
3796.19, 3796.20, 3796.21, 3796.22, 3796.23, 7
3796.24, 3796.27, 3796.28, 3796.29, 3796.30, 8
4123.34, 4510.17, 4729.24, 4729.75, 4729.772, 9
4729.80, 4729.84, 4729.85, 4729.86, 4731.30, 10
4731.301, 4776.01, 5739.01, 5739.02, 5739.021, 11
5739.023, 5739.026, 5739.21, 5741.01, 5741.02, 12
5741.021, 5741.022, 5741.023, and 5741.03; to 13
enact sections 2953.40, 3796.32, 3796.35, 14
3796.99, 4743.11, and 5739.214; and to repeal 15
sections 2925.141, 3796.021, 3796.031, 3796.04, 16
4729.771, and 4731.302 of the Revised Code to 17
enact the Ohio Adult Use Act and to levy a tax. 18

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

Section 1. That sections 109.572, 2925.02, 2925.03, 19
2925.04, 2925.11, 2925.12, 2925.14, 2925.36, 2925.38, 3796.01, 20
3796.02, 3796.03, 3796.032, 3796.05, 3796.06, 3796.061, 3796.07, 21
3796.08, 3796.09, 3796.10, 3796.11, 3796.12, 3796.13, 3796.14, 22
3796.15, 3796.16, 3796.17, 3796.18, 3796.19, 3796.20, 3796.21, 23
3796.22, 3796.23, 3796.24, 3796.27, 3796.28, 3796.29, 3796.30, 24
4123.34, 4510.17, 4729.24, 4729.75, 4729.772, 4729.80, 4729.84, 25
4729.85, 4729.86, 4731.30, 4731.301, 4776.01, 5739.01, 5739.02, 26
5739.021, 5739.023, 5739.026, 5739.21, 5741.01, 5741.02, 27
5741.021, 5741.022, 5741.023, and 5741.03 be amended and 28
sections 2953.40, 3796.32, 3796.35, 3796.99, 4743.11, and 29
5739.214 of the Revised Code be enacted to read as follows: 30

Sec. 109.572. (A) (1) Upon receipt of a request pursuant to 31
section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised 32
Code, a completed form prescribed pursuant to division (C) (1) of 33
this section, and a set of fingerprint impressions obtained in 34
the manner described in division (C) (2) of this section, the 35
superintendent of the bureau of criminal identification and 36
investigation shall conduct a criminal records check in the 37
manner described in division (B) of this section to determine 38
whether any information exists that indicates that the person 39
who is the subject of the request previously has been convicted 40
of or pleaded guilty to any of the following: 41

(a) A violation of section 2903.01, 2903.02, 2903.03, 42
2903.04, 2903.041, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 43
2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 44
2905.32, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 45
2907.08, 2907.09, 2907.19, 2907.21, 2907.22, 2907.23, 2907.25, 46
2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 47
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 48
2923.12, 2923.13, 2923.161, 2923.17, 2923.21, 2923.42, 2925.02, 49

2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.13, 2925.22, 50
2925.23, 2925.24, 2925.31, 2925.32, 2925.36, 2925.37, or 3716.11 51
of the Revised Code, felonious sexual penetration in violation 52
of former section 2907.12 of the Revised Code, a violation of 53
section 2905.04 of the Revised Code as it existed prior to July 54
1, 1996, a violation of section 2919.23 of the Revised Code that 55
would have been a violation of section 2905.04 of the Revised 56
Code as it existed prior to July 1, 1996, had the violation been 57
committed prior to that date, or a violation of section 2925.11 58
of the Revised Code that is not a minor drug possession offense; 59

(b) A violation of an existing or former law of this 60
state, any other state, or the United States that is 61
substantially equivalent to any of the offenses listed in 62
division (A) (1) (a) of this section; 63

(c) If the request is made pursuant to section 3319.39 of 64
the Revised Code for an applicant who is a teacher, any offense 65
specified under section 9.79 of the Revised Code or in section 66
3319.31 of the Revised Code. 67

(2) On receipt of a request pursuant to section 3712.09 or 68
3721.121 of the Revised Code, a completed form prescribed 69
pursuant to division (C) (1) of this section, and a set of 70
fingerprint impressions obtained in the manner described in 71
division (C) (2) of this section, the superintendent of the 72
bureau of criminal identification and investigation shall 73
conduct a criminal records check with respect to any person who 74
has applied for employment in a position for which a criminal 75
records check is required by those sections. The superintendent 76
shall conduct the criminal records check in the manner described 77
in division (B) of this section to determine whether any 78
information exists that indicates that the person who is the 79

subject of the request previously has been convicted of or 80
pleaded guilty to any of the following: 81

(a) A violation of section 2903.01, 2903.02, 2903.03, 82
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 83
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 84
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 85
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 86
2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 87
2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 88
2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 89
2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code; 90

(b) An existing or former law of this state, any other 91
state, or the United States that is substantially equivalent to 92
any of the offenses listed in division (A) (2) (a) of this 93
section. 94

(3) On receipt of a request pursuant to section 173.27, 95
173.38, 173.381, 3740.11, 5119.34, 5164.34, 5164.341, 5164.342, 96
5123.081, or 5123.169 of the Revised Code, a completed form 97
prescribed pursuant to division (C) (1) of this section, and a 98
set of fingerprint impressions obtained in the manner described 99
in division (C) (2) of this section, the superintendent of the 100
bureau of criminal identification and investigation shall 101
conduct a criminal records check of the person for whom the 102
request is made. The superintendent shall conduct the criminal 103
records check in the manner described in division (B) of this 104
section to determine whether any information exists that 105
indicates that the person who is the subject of the request 106
previously has been convicted of, has pleaded guilty to, or 107
(except in the case of a request pursuant to section 5164.34, 108
5164.341, or 5164.342 of the Revised Code) has been found 109

eligible for intervention in lieu of conviction for any of the 110
following, regardless of the date of the conviction, the date of 111
entry of the guilty plea, or (except in the case of a request 112
pursuant to section 5164.34, 5164.341, or 5164.342 of the 113
Revised Code) the date the person was found eligible for 114
intervention in lieu of conviction: 115

(a) A violation of section 959.13, 959.131, 2903.01, 116
2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 117
2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 118
2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2905.32, 2905.33, 119
2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 120
2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 121
2907.32, 2907.321, 2907.322, 2907.323, 2907.33, 2909.02, 122
2909.03, 2909.04, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 123
2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 124
2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 125
2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 126
2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 127
2919.121, 2919.123, 2919.124, 2919.22, 2919.23, 2919.24, 128
2919.25, 2921.03, 2921.11, 2921.12, 2921.13, 2921.21, 2921.24, 129
2921.32, 2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12, 130
2923.122, 2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 131
2923.32, 2923.42, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 132
2925.06, 2925.09, 2925.11, 2925.13, 2925.14, 2925.22, 2925.23, 133
2925.24, 2925.36, 2925.55, 2925.56, 2927.12, or 3716.11 of the 134
Revised Code; 135

(b) Felonious sexual penetration in violation of former 136
section 2907.12 of the Revised Code; 137

(c) A violation of section 2905.04 of the Revised Code as 138
it existed prior to July 1, 1996; 139

(d) A violation of section 2923.01, 2923.02, or 2923.03 of 140
the Revised Code when the underlying offense that is the object 141
of the conspiracy, attempt, or complicity is one of the offenses 142
listed in divisions (A) (3) (a) to (c) of this section; 143

(e) A violation of an existing or former municipal 144
ordinance or law of this state, any other state, or the United 145
States that is substantially equivalent to any of the offenses 146
listed in divisions (A) (3) (a) to (d) of this section. 147

(4) On receipt of a request pursuant to section 2151.86 or 148
2151.904 of the Revised Code, a completed form prescribed 149
pursuant to division (C) (1) of this section, and a set of 150
fingerprint impressions obtained in the manner described in 151
division (C) (2) of this section, the superintendent of the 152
bureau of criminal identification and investigation shall 153
conduct a criminal records check in the manner described in 154
division (B) of this section to determine whether any 155
information exists that indicates that the person who is the 156
subject of the request previously has been convicted of or 157
pleaded guilty to any of the following: 158

(a) A violation of section 959.13, 2903.01, 2903.02, 159
2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 160
2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 161
2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 162
2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 163
2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 164
2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 165
2917.01, 2917.02, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 166
2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 167
2927.12, or 3716.11 of the Revised Code, a violation of section 168
2905.04 of the Revised Code as it existed prior to July 1, 1996, 169

a violation of section 2919.23 of the Revised Code that would 170
have been a violation of section 2905.04 of the Revised Code as 171
it existed prior to July 1, 1996, had the violation been 172
committed prior to that date, a violation of section 2925.11 of 173
the Revised Code that is not a minor drug possession offense, 174
two or more OVI or OVUAC violations committed within the three 175
years immediately preceding the submission of the application or 176
petition that is the basis of the request, or felonious sexual 177
penetration in violation of former section 2907.12 of the 178
Revised Code; 179

(b) A violation of an existing or former law of this 180
state, any other state, or the United States that is 181
substantially equivalent to any of the offenses listed in 182
division (A)(4)(a) of this section. 183

(5) Upon receipt of a request pursuant to section 5104.013 184
of the Revised Code, a completed form prescribed pursuant to 185
division (C)(1) of this section, and a set of fingerprint 186
impressions obtained in the manner described in division (C)(2) 187
of this section, the superintendent of the bureau of criminal 188
identification and investigation shall conduct a criminal 189
records check in the manner described in division (B) of this 190
section to determine whether any information exists that 191
indicates that the person who is the subject of the request has 192
been convicted of or pleaded guilty to any of the following: 193

(a) A violation of section 2151.421, 2903.01, 2903.02, 194
2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 195
2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.32, 196
2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 197
2907.09, 2907.19, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 198
2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 199

2909.03, 2909.04, 2909.05, 2911.01, 2911.02, 2911.11, 2911.12, 200
2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 2913.06, 2913.11, 201
2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.41, 202
2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 203
2913.48, 2913.49, 2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 204
2919.22, 2919.224, 2919.225, 2919.24, 2919.25, 2921.03, 2921.11, 205
2921.13, 2921.14, 2921.34, 2921.35, 2923.01, 2923.12, 2923.13, 206
2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 207
3716.11 of the Revised Code, felonious sexual penetration in 208
violation of former section 2907.12 of the Revised Code, a 209
violation of section 2905.04 of the Revised Code as it existed 210
prior to July 1, 1996, a violation of section 2919.23 of the 211
Revised Code that would have been a violation of section 2905.04 212
of the Revised Code as it existed prior to July 1, 1996, had the 213
violation been committed prior to that date, a violation of 214
section 2925.11 of the Revised Code that is not a minor drug 215
possession offense, a violation of section 2923.02 or 2923.03 of 216
the Revised Code that relates to a crime specified in this 217
division, or a second violation of section 4511.19 of the 218
Revised Code within five years of the date of application for 219
licensure or certification. 220

(b) A violation of an existing or former law of this 221
state, any other state, or the United States that is 222
substantially equivalent to any of the offenses or violations 223
described in division (A) (5) (a) of this section. 224

(6) Upon receipt of a request pursuant to section 5153.111 225
of the Revised Code, a completed form prescribed pursuant to 226
division (C) (1) of this section, and a set of fingerprint 227
impressions obtained in the manner described in division (C) (2) 228
of this section, the superintendent of the bureau of criminal 229
identification and investigation shall conduct a criminal 230

records check in the manner described in division (B) of this 231
section to determine whether any information exists that 232
indicates that the person who is the subject of the request 233
previously has been convicted of or pleaded guilty to any of the 234
following: 235

(a) A violation of section 2903.01, 2903.02, 2903.03, 236
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 237
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 238
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 239
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 240
2909.02, 2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 241
2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 242
2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised 243
Code, felonious sexual penetration in violation of former 244
section 2907.12 of the Revised Code, a violation of section 245
2905.04 of the Revised Code as it existed prior to July 1, 1996, 246
a violation of section 2919.23 of the Revised Code that would 247
have been a violation of section 2905.04 of the Revised Code as 248
it existed prior to July 1, 1996, had the violation been 249
committed prior to that date, or a violation of section 2925.11 250
of the Revised Code that is not a minor drug possession offense; 251

(b) A violation of an existing or former law of this 252
state, any other state, or the United States that is 253
substantially equivalent to any of the offenses listed in 254
division (A) (6) (a) of this section. 255

(7) On receipt of a request for a criminal records check 256
from an individual pursuant to section 4749.03 or 4749.06 of the 257
Revised Code, accompanied by a completed copy of the form 258
prescribed in division (C) (1) of this section and a set of 259
fingerprint impressions obtained in a manner described in 260

division (C) (2) of this section, the superintendent of the 261
bureau of criminal identification and investigation shall 262
conduct a criminal records check in the manner described in 263
division (B) of this section to determine whether any 264
information exists indicating that the person who is the subject 265
of the request has been convicted of or pleaded guilty to any 266
criminal offense in this state or in any other state. If the 267
individual indicates that a firearm will be carried in the 268
course of business, the superintendent shall require information 269
from the federal bureau of investigation as described in 270
division (B) (2) of this section. Subject to division (F) of this 271
section, the superintendent shall report the findings of the 272
criminal records check and any information the federal bureau of 273
investigation provides to the director of public safety. 274

(8) On receipt of a request pursuant to section 1321.37, 275
1321.53, or 4763.05 of the Revised Code, a completed form 276
prescribed pursuant to division (C) (1) of this section, and a 277
set of fingerprint impressions obtained in the manner described 278
in division (C) (2) of this section, the superintendent of the 279
bureau of criminal identification and investigation shall 280
conduct a criminal records check with respect to any person who 281
has applied for a license, permit, or certification from the 282
department of commerce or a division in the department. The 283
superintendent shall conduct the criminal records check in the 284
manner described in division (B) of this section to determine 285
whether any information exists that indicates that the person 286
who is the subject of the request previously has been convicted 287
of or pleaded guilty to any criminal offense in this state, any 288
other state, or the United States. 289

(9) On receipt of a request for a criminal records check 290
from the treasurer of state under section 113.041 of the Revised 291

Code or from an individual under section 928.03, 4701.08, 292
4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4729.53, 293
4729.90, 4729.92, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 294
4731.171, 4731.222, 4731.281, 4731.531, 4732.091, 4734.202, 295
4740.061, 4741.10, 4747.051, 4751.20, 4751.201, 4751.21, 296
4753.061, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 297
4761.051, 4762.031, 4762.06, 4774.031, 4774.06, 4776.021, 298
4778.04, 4778.07, 4779.091, or 4783.04 of the Revised Code, 299
accompanied by a completed form prescribed under division (C) (1) 300
of this section and a set of fingerprint impressions obtained in 301
the manner described in division (C) (2) of this section, the 302
superintendent of the bureau of criminal identification and 303
investigation shall conduct a criminal records check in the 304
manner described in division (B) of this section to determine 305
whether any information exists that indicates that the person 306
who is the subject of the request has been convicted of or 307
pleaded guilty to any criminal offense in this state or any 308
other state. Subject to division (F) of this section, the 309
superintendent shall send the results of a check requested under 310
section 113.041 of the Revised Code to the treasurer of state 311
and shall send the results of a check requested under any of the 312
other listed sections to the licensing board specified by the 313
individual in the request. 314

(10) On receipt of a request pursuant to section 124.74, 315
718.131, 1121.23, 1315.141, 1733.47, or 1761.26 of the Revised 316
Code, a completed form prescribed pursuant to division (C) (1) of 317
this section, and a set of fingerprint impressions obtained in 318
the manner described in division (C) (2) of this section, the 319
superintendent of the bureau of criminal identification and 320
investigation shall conduct a criminal records check in the 321
manner described in division (B) of this section to determine 322

whether any information exists that indicates that the person 323
who is the subject of the request previously has been convicted 324
of or pleaded guilty to any criminal offense under any existing 325
or former law of this state, any other state, or the United 326
States. 327

(11) On receipt of a request for a criminal records check 328
from an appointing or licensing authority under section 3772.07 329
of the Revised Code, a completed form prescribed under division 330
(C) (1) of this section, and a set of fingerprint impressions 331
obtained in the manner prescribed in division (C) (2) of this 332
section, the superintendent of the bureau of criminal 333
identification and investigation shall conduct a criminal 334
records check in the manner described in division (B) of this 335
section to determine whether any information exists that 336
indicates that the person who is the subject of the request 337
previously has been convicted of or pleaded guilty or no contest 338
to any offense under any existing or former law of this state, 339
any other state, or the United States that makes the person 340
ineligible for appointment or retention under section 3772.07 of 341
the Revised Code or that is a disqualifying offense as defined 342
in that section or substantially equivalent to a disqualifying 343
offense, as applicable. 344

(12) On receipt of a request pursuant to section 2151.33 345
or 2151.412 of the Revised Code, a completed form prescribed 346
pursuant to division (C) (1) of this section, and a set of 347
fingerprint impressions obtained in the manner described in 348
division (C) (2) of this section, the superintendent of the 349
bureau of criminal identification and investigation shall 350
conduct a criminal records check with respect to any person for 351
whom a criminal records check is required under that section. 352
The superintendent shall conduct the criminal records check in 353

the manner described in division (B) of this section to 354
determine whether any information exists that indicates that the 355
person who is the subject of the request previously has been 356
convicted of or pleaded guilty to any of the following: 357

(a) A violation of section 2903.01, 2903.02, 2903.03, 358
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 359
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 360
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 361
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 362
2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 363
2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 364
2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 365
2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code; 366

(b) An existing or former law of this state, any other 367
state, or the United States that is substantially equivalent to 368
any of the offenses listed in division (A)(12)(a) of this 369
section. 370

(13) On receipt of a request pursuant to section 3796.12 371
of the Revised Code, a completed form prescribed pursuant to 372
division (C)(1) of this section, and a set of fingerprint 373
impressions obtained in a manner described in division (C)(2) of 374
this section, the superintendent of the bureau of criminal 375
identification and investigation shall conduct a criminal 376
records check in the manner described in division (B) of this 377
section to determine whether any information exists that 378
indicates that the person who is the subject of the request 379
previously has been convicted of or pleaded guilty to ~~the~~ 380
~~following:~~ 381

~~(a) A~~ a disqualifying offense as specified in rules 382
adopted under ~~section~~ sections 9.79 and ~~division (B)(2)(b) of~~ 383

~~section 3796.03 of the Revised Code if the person who is the~~ 384
~~subject of the request is an administrator or other person~~ 385
~~responsible for the daily operation of, or an owner or~~ 386
~~prospective owner, officer or prospective officer, or board~~ 387
~~member or prospective board member of, an entity seeking a~~ 388
~~license from the department of commerce under Chapter 3796. of~~ 389
~~the Revised Code;~~ 390

~~(b) A disqualifying offense as specified in rules adopted~~ 391
~~under section 9.79 and division (B) (2) (b) of section 3796.04 of~~ 392
~~the Revised Code if the person who is the subject of the request~~ 393
~~is an administrator or other person responsible for the daily~~ 394
~~operation of, or an owner or prospective owner, officer or~~ 395
~~prospective officer, or board member or prospective board member~~ 396
~~of, an entity seeking a license from the state board of pharmacy~~ 397
~~under Chapter 3796. of the Revised Code.~~ 398

(14) On receipt of a request required by section 3796.13 399
of the Revised Code, a completed form prescribed pursuant to 400
division (C) (1) of this section, and a set of fingerprint 401
impressions obtained in a manner described in division (C) (2) of 402
this section, the superintendent of the bureau of criminal 403
identification and investigation shall conduct a criminal 404
records check in the manner described in division (B) of this 405
section to determine whether any information exists that 406
indicates that the person who is the subject of the request 407
previously has been convicted of or pleaded guilty to ~~the~~ 408
~~following:~~ 409

~~(a) A~~ a disqualifying offense as specified in rules 410
adopted under ~~division (B) (8) (a) of~~ section 3796.03 of the 411
Revised Code if the person who is the subject of the request is 412
seeking employment with an entity licensed by the department of 413

commerce under Chapter 3796. of the Revised Code 414

~~(b) A disqualifying offense as specified in rules adopted 415
under division (B) (14) (a) of section 3796.04 of the Revised Code 416
if the person who is the subject of the request is seeking 417
employment with an entity licensed by the state board of 418
pharmacy under Chapter 3796. of the Revised Code. 419~~

(15) On receipt of a request pursuant to section 4768.06 420
of the Revised Code, a completed form prescribed under division 421
(C) (1) of this section, and a set of fingerprint impressions 422
obtained in the manner described in division (C) (2) of this 423
section, the superintendent of the bureau of criminal 424
identification and investigation shall conduct a criminal 425
records check in the manner described in division (B) of this 426
section to determine whether any information exists indicating 427
that the person who is the subject of the request has been 428
convicted of or pleaded guilty to any criminal offense in this 429
state or in any other state. 430

(16) On receipt of a request pursuant to division (B) of 431
section 4764.07 or division (A) of section 4735.143 of the 432
Revised Code, a completed form prescribed under division (C) (1) 433
of this section, and a set of fingerprint impressions obtained 434
in the manner described in division (C) (2) of this section, the 435
superintendent of the bureau of criminal identification and 436
investigation shall conduct a criminal records check in the 437
manner described in division (B) of this section to determine 438
whether any information exists indicating that the person who is 439
the subject of the request has been convicted of or pleaded 440
guilty to any criminal offense in any state or the United 441
States. 442

(17) On receipt of a request for a criminal records check 443

under section 147.022 of the Revised Code, a completed form 444
prescribed under division (C) (1) of this section, and a set of 445
fingerprint impressions obtained in the manner prescribed in 446
division (C) (2) of this section, the superintendent of the 447
bureau of criminal identification and investigation shall 448
conduct a criminal records check in the manner described in 449
division (B) of this section to determine whether any 450
information exists that indicates that the person who is the 451
subject of the request previously has been convicted of or 452
pleaded guilty or no contest to any criminal offense under any 453
existing or former law of this state, any other state, or the 454
United States. 455

(18) Upon receipt of a request pursuant to division (F) of 456
section 2915.081 or division (E) of section 2915.082 of the 457
Revised Code, a completed form prescribed under division (C) (1) 458
of this section, and a set of fingerprint impressions obtained 459
in the manner described in division (C) (2) of this section, the 460
superintendent of the bureau of criminal identification and 461
investigation shall conduct a criminal records check in the 462
manner described in division (B) of this section to determine 463
whether any information exists indicating that the person who is 464
the subject of the request has been convicted of or pleaded 465
guilty or no contest to any offense that is a violation of 466
Chapter 2915. of the Revised Code or to any offense under any 467
existing or former law of this state, any other state, or the 468
United States that is substantially equivalent to such an 469
offense. 470

(19) On receipt of a request pursuant to section 3775.03 471
of the Revised Code, a completed form prescribed under division 472
(C) (1) of this section, and a set of fingerprint impressions 473
obtained in the manner described in division (C) (2) of this 474

section, the superintendent of the bureau of criminal 475
identification and investigation shall conduct a criminal 476
records check in the manner described in division (B) of this 477
section and shall request information from the federal bureau of 478
investigation to determine whether any information exists 479
indicating that the person who is the subject of the request has 480
been convicted of any offense under any existing or former law 481
of this state, any other state, or the United States that is a 482
disqualifying offense as defined in section 3772.07 of the 483
Revised Code. 484

(B) Subject to division (F) of this section, the 485
superintendent shall conduct any criminal records check to be 486
conducted under this section as follows: 487

(1) The superintendent shall review or cause to be 488
reviewed any relevant information gathered and compiled by the 489
bureau under division (A) of section 109.57 of the Revised Code 490
that relates to the person who is the subject of the criminal 491
records check, including, if the criminal records check was 492
requested under section 113.041, 121.08, 124.74, 173.27, 173.38, 493
173.381, 718.131, 928.03, 1121.23, 1315.141, 1321.37, 1321.53, 494
1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3740.11, 495
3712.09, 3721.121, 3772.07, 3775.03, 3796.12, 3796.13, 4729.071, 496
4729.53, 4729.90, 4729.92, 4749.03, 4749.06, 4763.05, 4764.07, 497
4768.06, 5104.013, 5164.34, 5164.341, 5164.342, 5123.081, 498
5123.169, or 5153.111 of the Revised Code, any relevant 499
information contained in records that have been sealed under 500
section 2953.32 of the Revised Code; 501

(2) If the request received by the superintendent asks for 502
information from the federal bureau of investigation, the 503
superintendent shall request from the federal bureau of 504

investigation any information it has with respect to the person 505
who is the subject of the criminal records check, including 506
fingerprint-based checks of national crime information databases 507
as described in 42 U.S.C. 671 if the request is made pursuant to 508
section 2151.86 or 5104.013 of the Revised Code or if any other 509
Revised Code section requires fingerprint-based checks of that 510
nature, and shall review or cause to be reviewed any information 511
the superintendent receives from that bureau. If a request under 512
section 3319.39 of the Revised Code asks only for information 513
from the federal bureau of investigation, the superintendent 514
shall not conduct the review prescribed by division (B) (1) of 515
this section. 516

(3) The superintendent or the superintendent's designee 517
may request criminal history records from other states or the 518
federal government pursuant to the national crime prevention and 519
privacy compact set forth in section 109.571 of the Revised 520
Code. 521

(4) The superintendent shall include in the results of the 522
criminal records check a list or description of the offenses 523
listed or described in the relevant provision of division (A) of 524
this section. The superintendent shall exclude from the results 525
any information the dissemination of which is prohibited by 526
federal law. 527

(5) The superintendent shall send the results of the 528
criminal records check to the person to whom it is to be sent 529
not later than the following number of days after the date the 530
superintendent receives the request for the criminal records 531
check, the completed form prescribed under division (C) (1) of 532
this section, and the set of fingerprint impressions obtained in 533
the manner described in division (C) (2) of this section: 534

(a) If the superintendent is required by division (A) of 535
this section (other than division (A)(3) of this section) to 536
conduct the criminal records check, thirty; 537

(b) If the superintendent is required by division (A)(3) 538
of this section to conduct the criminal records check, sixty. 539

(C)(1) The superintendent shall prescribe a form to obtain 540
the information necessary to conduct a criminal records check 541
from any person for whom a criminal records check is to be 542
conducted under this section. The form that the superintendent 543
prescribes pursuant to this division may be in a tangible 544
format, in an electronic format, or in both tangible and 545
electronic formats. 546

(2) The superintendent shall prescribe standard impression 547
sheets to obtain the fingerprint impressions of any person for 548
whom a criminal records check is to be conducted under this 549
section. Any person for whom a records check is to be conducted 550
under this section shall obtain the fingerprint impressions at a 551
county sheriff's office, municipal police department, or any 552
other entity with the ability to make fingerprint impressions on 553
the standard impression sheets prescribed by the superintendent. 554
The office, department, or entity may charge the person a 555
reasonable fee for making the impressions. The standard 556
impression sheets the superintendent prescribes pursuant to this 557
division may be in a tangible format, in an electronic format, 558
or in both tangible and electronic formats. 559

(3) Subject to division (D) of this section, the 560
superintendent shall prescribe and charge a reasonable fee for 561
providing a criminal records check under this section. The 562
person requesting the criminal records check shall pay the fee 563
prescribed pursuant to this division. In the case of a request 564

under section 1121.23, 1155.03, 1163.05, 1315.141, 1733.47, 565
1761.26, 2151.33, 2151.412, or 5164.34 of the Revised Code, the 566
fee shall be paid in the manner specified in that section. 567

(4) The superintendent of the bureau of criminal 568
identification and investigation may prescribe methods of 569
forwarding fingerprint impressions and information necessary to 570
conduct a criminal records check, which methods shall include, 571
but not be limited to, an electronic method. 572

(D) The results of a criminal records check conducted 573
under this section, other than a criminal records check 574
specified in division (A)(7) of this section, are valid for the 575
person who is the subject of the criminal records check for a 576
period of one year from the date upon which the superintendent 577
completes the criminal records check. If during that period the 578
superintendent receives another request for a criminal records 579
check to be conducted under this section for that person, the 580
superintendent shall provide the results from the previous 581
criminal records check of the person at a lower fee than the fee 582
prescribed for the initial criminal records check. 583

(E) When the superintendent receives a request for 584
information from a registered private provider, the 585
superintendent shall proceed as if the request was received from 586
a school district board of education under section 3319.39 of 587
the Revised Code. The superintendent shall apply division (A)(1) 588
(c) of this section to any such request for an applicant who is 589
a teacher. 590

(F)(1) Subject to division (F)(2) of this section, all 591
information regarding the results of a criminal records check 592
conducted under this section that the superintendent reports or 593
sends under division (A)(7) or (9) of this section to the 594

director of public safety, the treasurer of state, or the 595
person, board, or entity that made the request for the criminal 596
records check shall relate to the conviction of the subject 597
person, or the subject person's plea of guilty to, a criminal 598
offense. 599

(2) Division (F)(1) of this section does not limit, 600
restrict, or preclude the superintendent's release of 601
information that relates to the arrest of a person who is 602
eighteen years of age or older, to an adjudication of a child as 603
a delinquent child, or to a criminal conviction of a person 604
under eighteen years of age in circumstances in which a release 605
of that nature is authorized under division (E)(2), (3), or (4) 606
of section 109.57 of the Revised Code pursuant to a rule adopted 607
under division (E)(1) of that section. 608

(G) As used in this section: 609

(1) "Criminal records check" means any criminal records 610
check conducted by the superintendent of the bureau of criminal 611
identification and investigation in accordance with division (B) 612
of this section. 613

(2) "Minor drug possession offense" has the same meaning 614
as in section 2925.01 of the Revised Code. 615

(3) "OVI or OVUAC violation" means a violation of section 616
4511.19 of the Revised Code or a violation of an existing or 617
former law of this state, any other state, or the United States 618
that is substantially equivalent to section 4511.19 of the 619
Revised Code. 620

(4) "Registered private provider" means a nonpublic school 621
or entity registered with the superintendent of public 622
instruction under section 3310.41 of the Revised Code to 623

participate in the autism scholarship program or section 3310.58 624
of the Revised Code to participate in the Jon Peterson special 625
needs scholarship program. 626

Sec. 2925.02. (A) No person shall knowingly do any of the 627
following: 628

(1) By force, threat, or deception, administer to another 629
or induce or cause another to use a controlled substance; 630

(2) By any means, administer or furnish to another or 631
induce or cause another to use a controlled substance with 632
purpose to cause serious physical harm to the other person, or 633
with purpose to cause the other person to become a person with 634
drug dependency; 635

(3) By any means, administer or furnish to another or 636
induce or cause another to use a controlled substance, and 637
thereby cause serious physical harm to the other person, or 638
cause the other person to become a person with drug dependency; 639

(4) By any means, do any of the following: 640

(a) Furnish or administer a controlled substance to a 641
juvenile who is at least two years the offender's junior, when 642
the offender knows the age of the juvenile or is reckless in 643
that regard; 644

(b) Induce or cause a juvenile who is at least two years 645
the offender's junior to use a controlled substance, when the 646
offender knows the age of the juvenile or is reckless in that 647
regard; 648

(c) Induce or cause a juvenile who is at least two years 649
the offender's junior to commit a felony drug abuse offense, 650
when the offender knows the age of the juvenile or is reckless 651

in that regard; 652

(d) Use a juvenile, whether or not the offender knows the 653
age of the juvenile, to perform any surveillance activity that 654
is intended to prevent the detection of the offender or any 655
other person in the commission of a felony drug abuse offense or 656
to prevent the arrest of the offender or any other person for 657
the commission of a felony drug abuse offense. 658

(5) By any means, furnish or administer a controlled 659
substance to a pregnant woman or induce or cause a pregnant 660
woman to use a controlled substance, when the offender knows 661
that the woman is pregnant or is reckless in that regard. 662

(B) Division (A) (1), (3), (4), or (5) of this section does 663
not apply to manufacturers, wholesalers, licensed health 664
professionals authorized to prescribe drugs, pharmacists, owners 665
of pharmacies, cultivators, processors, testing laboratories, 666
registered patients, adult consumers, and other persons whose 667
conduct is in accordance with Chapters 3719., 3796., 4715., 668
4723., 4729., 4730., 4731., and 4741. of the Revised Code. 669

(C) Whoever violates this section is guilty of corrupting 670
another with drugs. The penalty for the offense shall be 671
determined as follows: 672

(1) If the offense is a violation of division (A) (1), (2), 673
(3), or (4) of this section and the drug involved is any 674
compound, mixture, preparation, or substance included in 675
schedule I or II, with the exception of marihuana, 1-Pentyl-3- 676
(1-naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 1-[2-(4- 677
morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1- 678
dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, and 5- 679
(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, the 680

offender shall be punished as follows: 681

(a) Except as otherwise provided in division (C) (1) (b) of 682
this section, corrupting another with drugs committed in those 683
circumstances is a felony of the second degree and, subject to 684
division (E) of this section, the court shall impose as a 685
mandatory prison term a second degree felony mandatory prison 686
term. 687

(b) If the offense was committed in the vicinity of a 688
school, corrupting another with drugs committed in those 689
circumstances is a felony of the first degree, and, subject to 690
division (E) of this section, the court shall impose as a 691
mandatory prison term a first degree felony mandatory prison 692
term. 693

(2) If the offense is a violation of division (A) (1), (2), 694
(3), or (4) of this section and the drug involved is any 695
compound, mixture, preparation, or substance included in 696
schedule III, IV, or V, the offender shall be punished as 697
follows: 698

(a) Except as otherwise provided in division (C) (2) (b) of 699
this section, corrupting another with drugs committed in those 700
circumstances is a felony of the second degree and there is a 701
presumption for a prison term for the offense. 702

(b) If the offense was committed in the vicinity of a 703
school, corrupting another with drugs committed in those 704
circumstances is a felony of the second degree and the court 705
shall impose as a mandatory prison term a second degree felony 706
mandatory prison term. 707

(3) If the offense is a violation of division (A) (1), (2), 708
(3), or (4) of this section and the drug involved is marihuana, 709

1-Pentyl-3-(1-naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 710
1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1- 711
dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, or 5- 712
(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, the 713
offender shall be punished as follows: 714

(a) Except as otherwise provided in division (C) (3) (b) of 715
this section, corrupting another with drugs committed in those 716
circumstances is a felony of the fourth degree and division (C) 717
of section 2929.13 of the Revised Code applies in determining 718
whether to impose a prison term on the offender. 719

(b) If the offense was committed in the vicinity of a 720
school, corrupting another with drugs committed in those 721
circumstances is a felony of the third degree and division (C) 722
of section 2929.13 of the Revised Code applies in determining 723
whether to impose a prison term on the offender. 724

(4) If the offense is a violation of division (A) (5) of 725
this section and the drug involved is any compound, mixture, 726
preparation, or substance included in schedule I or II, with the 727
exception of marihuana, 1-Pentyl-3-(1-naphthoyl)indole, 1-Butyl- 728
3-(1-naphthoyl)indole, 1-[2-(4-morpholinyl)ethyl]-3-(1- 729
naphthoyl)indole, 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3- 730
hydroxycyclohexyl]-phenol, and 5-(1,1-dimethyloctyl)-2-[(1R,3S)- 731
3-hydroxycyclohexyl]-phenol, corrupting another with drugs is a 732
felony of the first degree and, subject to division (E) of this 733
section, the court shall impose as a mandatory prison term a 734
first degree felony mandatory prison term. 735

(5) If the offense is a violation of division (A) (5) of 736
this section and the drug involved is any compound, mixture, 737
preparation, or substance included in schedule III, IV, or V, 738
corrupting another with drugs is a felony of the second degree 739

and the court shall impose as a mandatory prison term a second 740
degree felony mandatory prison term. 741

(6) If the offense is a violation of division (A) (5) of 742
this section and the drug involved is marihuana, 1-Pentyl-3-(1- 743
naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 1-[2-(4- 744
morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1- 745
dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, or 5- 746
(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, 747
corrupting another with drugs is a felony of the third degree 748
and division (C) of section 2929.13 of the Revised Code applies 749
in determining whether to impose a prison term on the offender. 750

(D) In addition to any prison term authorized or required 751
by division (C) or (E) of this section and sections 2929.13 and 752
2929.14 of the Revised Code and in addition to any other 753
sanction imposed for the offense under this section or sections 754
2929.11 to 2929.18 of the Revised Code, the court that sentences 755
an offender who is convicted of or pleads guilty to a violation 756
of division (A) of this section may suspend for not more than 757
five years the offender's driver's or commercial driver's 758
license or permit. However, if the offender pleaded guilty to or 759
was convicted of a violation of section 4511.19 of the Revised 760
Code or a substantially similar municipal ordinance or the law 761
of another state or the United States arising out of the same 762
set of circumstances as the violation, the court shall suspend 763
the offender's driver's or commercial driver's license or permit 764
for not more than five years. The court also shall do all of the 765
following that are applicable regarding the offender: 766

(1) (a) If the violation is a felony of the first, second, 767
or third degree, the court shall impose upon the offender the 768
mandatory fine specified for the offense under division (B) (1) 769

of section 2929.18 of the Revised Code unless, as specified in 770
that division, the court determines that the offender is 771
indigent. 772

(b) Notwithstanding any contrary provision of section 773
3719.21 of the Revised Code, any mandatory fine imposed pursuant 774
to division (D) (1) (a) of this section and any fine imposed for a 775
violation of this section pursuant to division (A) of section 776
2929.18 of the Revised Code shall be paid by the clerk of the 777
court in accordance with and subject to the requirements of, and 778
shall be used as specified in, division (F) of section 2925.03 779
of the Revised Code. 780

(c) If a person is charged with any violation of this 781
section that is a felony of the first, second, or third degree, 782
posts bail, and forfeits the bail, the forfeited bail shall be 783
paid by the clerk of the court pursuant to division (D) (1) (b) of 784
this section as if it were a fine imposed for a violation of 785
this section. 786

(2) If the offender is a professionally licensed person, 787
in addition to any other sanction imposed for a violation of 788
this section, the court immediately shall comply with section 789
2925.38 of the Revised Code. 790

(E) Notwithstanding the prison term otherwise authorized 791
or required for the offense under division (C) of this section 792
and sections 2929.13 and 2929.14 of the Revised Code, if the 793
violation of division (A) of this section involves the sale, 794
offer to sell, or possession of a schedule I or II controlled 795
substance, with the exception of marihuana, 1-Pentyl-3-(1- 796
naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 1-[2-(4- 797
morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1- 798
dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, and 5- 799

(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, and 800
if the court imposing sentence upon the offender finds that the 801
offender as a result of the violation is a major drug offender 802
and is guilty of a specification of the type described in 803
division (A) of section 2941.1410 of the Revised Code, the 804
court, in lieu of the prison term that otherwise is authorized 805
or required, shall impose upon the offender the mandatory prison 806
term specified in division (B) (3) (a) of section 2929.14 of the 807
Revised Code. 808

(F) (1) If the sentencing court suspends the offender's 809
driver's or commercial driver's license or permit under division 810
(D) of this section, the offender, at any time after the 811
expiration of two years from the day on which the offender's 812
sentence was imposed or from the day on which the offender 813
finally was released from a prison term under the sentence, 814
whichever is later, may file a motion with the sentencing court 815
requesting termination of the suspension. Upon the filing of the 816
motion and the court's finding of good cause for the 817
determination, the court may terminate the suspension. 818

(2) Any offender who received a mandatory suspension of 819
the offender's driver's or commercial driver's license or permit 820
under this section prior to September 13, 2016, may file a 821
motion with the sentencing court requesting the termination of 822
the suspension. However, an offender who pleaded guilty to or 823
was convicted of a violation of section 4511.19 of the Revised 824
Code or a substantially similar municipal ordinance or law of 825
another state or the United States that arose out of the same 826
set of circumstances as the violation for which the offender's 827
license or permit was suspended under this section shall not 828
file such a motion. 829

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

Sec. 2925.03. (A) No person shall knowingly do any of the following:

(1) Sell or offer to sell a controlled substance or a controlled substance analog;

(2) Prepare for shipment, ship, transport, deliver, prepare for distribution, or distribute a controlled substance or a controlled substance analog, when the offender knows or has reasonable cause to believe that the controlled substance or a controlled substance analog is intended for sale or resale by the offender or another person.

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

(1) Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, cultivators, processors, testing laboratories, registered patients, adult consumers, and other persons whose conduct is in accordance with Chapters 3719., 3796., 4715., 4723., 4729., 4730., 4731., and 4741. of the Revised Code;

(2) 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;

(3) 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, 859
as amended, and is sold, offered for sale, prescribed, 860
dispensed, or administered for that purpose in accordance with 861
that act. 862

(C) Whoever violates division (A) of this section is 863
guilty of one of the following: 864

(1) If the drug involved in the violation is any compound, 865
mixture, preparation, or substance included in schedule I or 866
schedule II, with the exception of marihuana, cocaine, L.S.D., 867
heroin, any fentanyl-related compound, hashish, and any 868
controlled substance analog, whoever violates division (A) of 869
this section is guilty of aggravated trafficking in drugs. The 870
penalty for the offense shall be determined as follows: 871

(a) Except as otherwise provided in division (C)(1)(b), 872
(c), (d), (e), or (f) of this section, aggravated trafficking in 873
drugs is a felony of the fourth degree, and division (C) of 874
section 2929.13 of the Revised Code applies in determining 875
whether to impose a prison term on the offender. 876

(b) Except as otherwise provided in division (C)(1)(c), 877
(d), (e), or (f) of this section, if the offense was committed 878
in the vicinity of a school, in the vicinity of a juvenile, or 879
in the vicinity of a substance addiction services provider or a 880
recovering addict, aggravated trafficking in drugs is a felony 881
of the third degree, and division (C) of section 2929.13 of the 882
Revised Code applies in determining whether to impose a prison 883
term on the offender. 884

(c) Except as otherwise provided in this division, if the 885
amount of the drug involved equals or exceeds the bulk amount 886
but is less than five times the bulk amount, aggravated 887

trafficking in drugs is a felony of the third degree, and, 888
except as otherwise provided in this division, there is a 889
presumption for a prison term for the offense. If aggravated 890
trafficking in drugs is a felony of the third degree under this 891
division and if the offender two or more times previously has 892
been convicted of or pleaded guilty to a felony drug abuse 893
offense, the court shall impose as a mandatory prison term one 894
of the prison terms prescribed for a felony of the third degree. 895
If the amount of the drug involved is within that range and if 896
the offense was committed in the vicinity of a school, in the 897
vicinity of a juvenile, or in the vicinity of a substance 898
addiction services provider or a recovering addict, aggravated 899
trafficking in drugs is a felony of the second degree, and the 900
court shall impose as a mandatory prison term a second degree 901
felony mandatory prison term. 902

(d) Except as otherwise provided in this division, if the 903
amount of the drug involved equals or exceeds five times the 904
bulk amount but is less than fifty times the bulk amount, 905
aggravated trafficking in drugs is a felony of the second 906
degree, and the court shall impose as a mandatory prison term a 907
second degree felony mandatory prison term. If the amount of the 908
drug involved is within that range and if the offense was 909
committed in the vicinity of a school, in the vicinity of a 910
juvenile, or in the vicinity of a substance addiction services 911
provider or a recovering addict, aggravated trafficking in drugs 912
is a felony of the first degree, and the court shall impose as a 913
mandatory prison term a first degree felony mandatory prison 914
term. 915

(e) If the amount of the drug involved equals or exceeds 916
fifty times the bulk amount but is less than one hundred times 917
the bulk amount and regardless of whether the offense was 918

committed in the vicinity of a school, in the vicinity of a 919
juvenile, or in the vicinity of a substance addiction services 920
provider or a recovering addict, aggravated trafficking in drugs 921
is a felony of the first degree, and the court shall impose as a 922
mandatory prison term a first degree felony mandatory prison 923
term. 924

(f) If the amount of the drug involved equals or exceeds 925
one hundred times the bulk amount and regardless of whether the 926
offense was committed in the vicinity of a school, in the 927
vicinity of a juvenile, or in the vicinity of a substance 928
addiction services provider or a recovering addict, aggravated 929
trafficking in drugs is a felony of the first degree, the 930
offender is a major drug offender, and the court shall impose as 931
a mandatory prison term a maximum first degree felony mandatory 932
prison term. 933

(2) If the drug involved in the violation is any compound, 934
mixture, preparation, or substance included in schedule III, IV, 935
or V, whoever violates division (A) of this section is guilty of 936
trafficking in drugs. The penalty for the offense shall be 937
determined as follows: 938

(a) Except as otherwise provided in division (C) (2) (b), 939
(c), (d), or (e) of this section, trafficking in drugs is a 940
felony of the fifth degree, and division (B) of section 2929.13 941
of the Revised Code applies in determining whether to impose a 942
prison term on the offender. 943

(b) Except as otherwise provided in division (C) (2) (c), 944
(d), or (e) of this section, if the offense was committed in the 945
vicinity of a school or in the vicinity of a juvenile, 946
trafficking in drugs is a felony of the fourth degree, and 947
division (C) of section 2929.13 of the Revised Code applies in 948

determining whether to impose a prison term on the offender. 949

(c) Except as otherwise provided in this division, if the 950
amount of the drug involved equals or exceeds the bulk amount 951
but is less than five times the bulk amount, trafficking in 952
drugs is a felony of the fourth degree, and division (B) of 953
section 2929.13 of the Revised Code applies in determining 954
whether to impose a prison term for the offense. If the amount 955
of the drug involved is within that range and if the offense was 956
committed in the vicinity of a school or in the vicinity of a 957
juvenile, trafficking in drugs is a felony of the third degree, 958
and there is a presumption for a prison term for the offense. 959

(d) Except as otherwise provided in this division, if the 960
amount of the drug involved equals or exceeds five times the 961
bulk amount but is less than fifty times the bulk amount, 962
trafficking in drugs is a felony of the third degree, and there 963
is a presumption for a prison term for the offense. If the 964
amount of the drug involved is within that range and if the 965
offense was committed in the vicinity of a school or in the 966
vicinity of a juvenile, trafficking in drugs is a felony of the 967
second degree, and there is a presumption for a prison term for 968
the offense. 969

(e) Except as otherwise provided in this division, if the 970
amount of the drug involved equals or exceeds fifty times the 971
bulk amount, trafficking in drugs is a felony of the second 972
degree, and the court shall impose as a mandatory prison term a 973
second degree felony mandatory prison term. If the amount of the 974
drug involved equals or exceeds fifty times the bulk amount and 975
if the offense was committed in the vicinity of a school or in 976
the vicinity of a juvenile, trafficking in drugs is a felony of 977
the first degree, and the court shall impose as a mandatory 978

prison term a first degree felony mandatory prison term. 979

(3) If the drug involved in the violation is marihuana or 980
a compound, mixture, preparation, or substance containing 981
marihuana other than hashish, whoever violates division (A) of 982
this section is guilty of trafficking in marihuana. The penalty 983
for the offense shall be determined as follows: 984

(a) Except as otherwise provided in division (C) (3) (b), 985
(c), (d), (e), (f), (g), or (h) of this section, trafficking in 986
marihuana is a felony of the fifth degree, and division (B) of 987
section 2929.13 of the Revised Code applies in determining 988
whether to impose a prison term on the offender. 989

(b) Except as otherwise provided in division (C) (3) (c), 990
(d), (e), (f), (g), or (h) of this section, if the offense was 991
committed in the vicinity of a school or in the vicinity of a 992
juvenile, trafficking in marihuana is a felony of the fourth 993
degree, and division (B) of section 2929.13 of the Revised Code 994
applies in determining whether to impose a prison term on the 995
offender. 996

(c) Except as otherwise provided in this division, if the 997
amount of the drug involved equals or exceeds two hundred grams 998
but is less than one thousand grams, trafficking in marihuana is 999
a felony of the fourth degree, and division (B) of section 1000
2929.13 of the Revised Code applies in determining whether to 1001
impose a prison term on the offender. If the amount of the drug 1002
involved is within that range and if the offense was committed 1003
in the vicinity of a school or in the vicinity of a juvenile, 1004
trafficking in marihuana is a felony of the third degree, and 1005
division (C) of section 2929.13 of the Revised Code applies in 1006
determining whether to impose a prison term on the offender. 1007

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds one thousand grams but is less than five thousand grams, trafficking in 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. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the second degree, and there is a presumption that a prison term shall be imposed for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds five thousand grams but is less than twenty thousand grams, trafficking in marihuana is a felony of the third degree, and there is a presumption that a prison term shall be imposed for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the second degree, and there is a presumption that a prison term shall be imposed for the offense.

(f) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds twenty thousand grams but is less than forty thousand grams, trafficking in 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. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in 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. 1039

(g) Except as otherwise provided in this division, if the 1040
amount of the drug involved equals or exceeds forty thousand 1041
grams, trafficking in marihuana is a felony of the second 1042
degree, and the court shall impose as a mandatory prison term a 1043
maximum second degree felony mandatory prison term. If the 1044
amount of the drug involved equals or exceeds forty thousand 1045
grams and if the offense was committed in the vicinity of a 1046
school or in the vicinity of a juvenile, trafficking in 1047
marihuana is a felony of the first degree, and the court shall 1048
impose as a mandatory prison term a maximum first degree felony 1049
mandatory prison term. 1050

(h) Except as otherwise provided in this division, if the 1051
offense involves a gift of twenty grams or less of marihuana, 1052
trafficking in marihuana is a minor misdemeanor upon a first 1053
offense and a misdemeanor of the third degree upon a subsequent 1054
offense. If the offense involves a gift of twenty grams or less 1055
of marihuana and if the offense was committed in the vicinity of 1056
a school or in the vicinity of a juvenile, trafficking in 1057
marihuana is a misdemeanor of the third degree. 1058

(4) If the drug involved in the violation is cocaine or a 1059
compound, mixture, preparation, or substance containing cocaine, 1060
whoever violates division (A) of this section is guilty of 1061
trafficking in cocaine. The penalty for the offense shall be 1062
determined as follows: 1063

(a) Except as otherwise provided in division (C) (4) (b), 1064
(c), (d), (e), (f), or (g) of this section, trafficking in 1065
cocaine is a felony of the fifth degree, and division (B) of 1066
section 2929.13 of the Revised Code applies in determining 1067
whether to impose a prison term on the offender. 1068

(b) Except as otherwise provided in division (C) (4) (c), 1069
(d), (e), (f), or (g) of this section, if the offense was 1070
committed in the vicinity of a school, in the vicinity of a 1071
juvenile, or in the vicinity of a substance addiction services 1072
provider or a recovering addict, trafficking in cocaine is a 1073
felony of the fourth degree, and division (C) of section 2929.13 1074
of the Revised Code applies in determining whether to impose a 1075
prison term on the offender. 1076

(c) Except as otherwise provided in this division, if the 1077
amount of the drug involved equals or exceeds five grams but is 1078
less than ten grams of cocaine, trafficking in cocaine is a 1079
felony of the fourth degree, and division (B) of section 2929.13 1080
of the Revised Code applies in determining whether to impose a 1081
prison term for the offense. If the amount of the drug involved 1082
is within that range and if the offense was committed in the 1083
vicinity of a school, in the vicinity of a juvenile, or in the 1084
vicinity of a substance addiction services provider or a 1085
recovering addict, trafficking in cocaine is a felony of the 1086
third degree, and there is a presumption for a prison term for 1087
the offense. 1088

(d) Except as otherwise provided in this division, if the 1089
amount of the drug involved equals or exceeds ten grams but is 1090
less than twenty grams of cocaine, trafficking in cocaine is a 1091
felony of the third degree, and, except as otherwise provided in 1092
this division, there is a presumption for a prison term for the 1093
offense. If trafficking in cocaine is a felony of the third 1094
degree under this division and if the offender two or more times 1095
previously has been convicted of or pleaded guilty to a felony 1096
drug abuse offense, the court shall impose as a mandatory prison 1097
term one of the prison terms prescribed for a felony of the 1098
third degree. If the amount of the drug involved is within that 1099

range and if the offense was committed in the vicinity of a 1100
school, in the vicinity of a juvenile, or in the vicinity of a 1101
substance addiction services provider or a recovering addict, 1102
trafficking in cocaine is a felony of the second degree, and the 1103
court shall impose as a mandatory prison term a second degree 1104
felony mandatory prison term. 1105

(e) Except as otherwise provided in this division, if the 1106
amount of the drug involved equals or exceeds twenty grams but 1107
is less than twenty-seven grams of cocaine, trafficking in 1108
cocaine is a felony of the second degree, and the court shall 1109
impose as a mandatory prison term a second degree felony 1110
mandatory prison term. If the amount of the drug involved is 1111
within that range and if the offense was committed in the 1112
vicinity of a school, in the vicinity of a juvenile, or in the 1113
vicinity of a substance addiction services provider or a 1114
recovering addict, trafficking in cocaine is a felony of the 1115
first degree, and the court shall impose as a mandatory prison 1116
term a first degree felony mandatory prison term. 1117

(f) If the amount of the drug involved equals or exceeds 1118
twenty-seven grams but is less than one hundred grams of cocaine 1119
and regardless of whether the offense was committed in the 1120
vicinity of a school, in the vicinity of a juvenile, or in the 1121
vicinity of a substance addiction services provider or a 1122
recovering addict, trafficking in cocaine is a felony of the 1123
first degree, and the court shall impose as a mandatory prison 1124
term a first degree felony mandatory prison term. 1125

(g) If the amount of the drug involved equals or exceeds 1126
one hundred grams of cocaine and regardless of whether the 1127
offense was committed in the vicinity of a school, in the 1128
vicinity of a juvenile, or in the vicinity of a substance 1129

addiction services provider or a recovering addict, trafficking 1130
in cocaine is a felony of the first degree, the offender is a 1131
major drug offender, and the court shall impose as a mandatory 1132
prison term a maximum first degree felony mandatory prison term. 1133

(5) If the drug involved in the violation is L.S.D. or a 1134
compound, mixture, preparation, or substance containing L.S.D., 1135
whoever violates division (A) of this section is guilty of 1136
trafficking in L.S.D. The penalty for the offense shall be 1137
determined as follows: 1138

(a) Except as otherwise provided in division (C) (5) (b), 1139
(c), (d), (e), (f), or (g) of this section, trafficking in 1140
L.S.D. is a felony of the fifth degree, and division (B) of 1141
section 2929.13 of the Revised Code applies in determining 1142
whether to impose a prison term on the offender. 1143

(b) Except as otherwise provided in division (C) (5) (c), 1144
(d), (e), (f), or (g) of this section, if the offense was 1145
committed in the vicinity of a school, in the vicinity of a 1146
juvenile, or in the vicinity of a substance addiction services 1147
provider or a recovering addict, trafficking in L.S.D. is a 1148
felony of the fourth degree, and division (C) of section 2929.13 1149
of the Revised Code applies in determining whether to impose a 1150
prison term on the offender. 1151

(c) Except as otherwise provided in this division, if the 1152
amount of the drug involved equals or exceeds ten unit doses but 1153
is less than fifty unit doses of L.S.D. in a solid form or 1154
equals or exceeds one gram but is less than five grams of L.S.D. 1155
in a liquid concentrate, liquid extract, or liquid distillate 1156
form, trafficking in L.S.D. is a felony of the fourth degree, 1157
and division (B) of section 2929.13 of the Revised Code applies 1158
in determining whether to impose a prison term for the offense. 1159

If the amount of the drug involved is within that range and if 1160
the offense was committed in the vicinity of a school, in the 1161
vicinity of a juvenile, or in the vicinity of a substance 1162
addiction services provider or a recovering addict, trafficking 1163
in L.S.D. is a felony of the third degree, and there is a 1164
presumption for a prison term for the offense. 1165

(d) Except as otherwise provided in this division, if the 1166
amount of the drug involved equals or exceeds fifty unit doses 1167
but is less than two hundred fifty unit doses of L.S.D. in a 1168
solid form or equals or exceeds five grams but is less than 1169
twenty-five grams of L.S.D. in a liquid concentrate, liquid 1170
extract, or liquid distillate form, trafficking in L.S.D. is a 1171
felony of the third degree, and, except as otherwise provided in 1172
this division, there is a presumption for a prison term for the 1173
offense. If trafficking in L.S.D. is a felony of the third 1174
degree under this division and if the offender two or more times 1175
previously has been convicted of or pleaded guilty to a felony 1176
drug abuse offense, the court shall impose as a mandatory prison 1177
term one of the prison terms prescribed for a felony of the 1178
third degree. If the amount of the drug involved is within that 1179
range and if the offense was committed in the vicinity of a 1180
school, in the vicinity of a juvenile, or in the vicinity of a 1181
substance addiction services provider or a recovering addict, 1182
trafficking in L.S.D. is a felony of the second degree, and the 1183
court shall impose as a mandatory prison term a second degree 1184
felony mandatory prison term. 1185

(e) Except as otherwise provided in this division, if the 1186
amount of the drug involved equals or exceeds two hundred fifty 1187
unit doses but is less than one thousand unit doses of L.S.D. in 1188
a solid form or equals or exceeds twenty-five grams but is less 1189
than one hundred grams of L.S.D. in a liquid concentrate, liquid 1190

extract, or liquid distillate form, trafficking in L.S.D. is a 1191
felony of the second degree, and the court shall impose as a 1192
mandatory prison term a second degree felony mandatory prison 1193
term. If the amount of the drug involved is within that range 1194
and if the offense was committed in the vicinity of a school, in 1195
the vicinity of a juvenile, or in the vicinity of a substance 1196
addiction services provider or a recovering addict, trafficking 1197
in L.S.D. is a felony of the first degree, and the court shall 1198
impose as a mandatory prison term a first degree felony 1199
mandatory prison term. 1200

(f) If the amount of the drug involved equals or exceeds 1201
one thousand unit doses but is less than five thousand unit 1202
doses of L.S.D. in a solid form or equals or exceeds one hundred 1203
grams but is less than five hundred grams of L.S.D. in a liquid 1204
concentrate, liquid extract, or liquid distillate form and 1205
regardless of whether the offense was committed in the vicinity 1206
of a school, in the vicinity of a juvenile, or in the vicinity 1207
of a substance addiction services provider or a recovering 1208
addict, trafficking in L.S.D. is a felony of the first degree, 1209
and the court shall impose as a mandatory prison term a first 1210
degree felony mandatory prison term. 1211

(g) If the amount of the drug involved equals or exceeds 1212
five thousand unit doses of L.S.D. in a solid form or equals or 1213
exceeds five hundred grams of L.S.D. in a liquid concentrate, 1214
liquid extract, or liquid distillate form and regardless of 1215
whether the offense was committed in the vicinity of a school, 1216
in the vicinity of a juvenile, or in the vicinity of a substance 1217
addiction services provider or a recovering addict, trafficking 1218
in L.S.D. is a felony of the first degree, the offender is a 1219
major drug offender, and the court shall impose as a mandatory 1220
prison term a maximum first degree felony mandatory prison term. 1221

(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 trafficking in heroin. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C) (6) (b), (c), (d), (e), (f), or (g) of this section, trafficking in 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) Except as otherwise provided in division (C) (6) (c), (d), (e), (f), or (g) of this section, if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in 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) Except as otherwise provided in this division, 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, trafficking in heroin 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 for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in heroin is a felony of the third degree, and there is a presumption for a prison term for

the offense. 1252

(d) Except as otherwise provided in this division, if the 1253
amount of the drug involved equals or exceeds fifty unit doses 1254
but is less than one hundred unit doses or equals or exceeds 1255
five grams but is less than ten grams, trafficking in heroin is 1256
a felony of the third degree, and there is a presumption for a 1257
prison term for the offense. If the amount of the drug involved 1258
is within that range and if the offense was committed in the 1259
vicinity of a school, in the vicinity of a juvenile, or in the 1260
vicinity of a substance addiction services provider or a 1261
recovering addict, trafficking in heroin is a felony of the 1262
second degree, and there is a presumption for a prison term for 1263
the offense. 1264

(e) Except as otherwise provided in this division, if the 1265
amount of the drug involved equals or exceeds one hundred unit 1266
doses but is less than five hundred unit doses or equals or 1267
exceeds ten grams but is less than fifty grams, trafficking in 1268
heroin is a felony of the second degree, and the court shall 1269
impose as a mandatory prison term a second degree felony 1270
mandatory prison term. If the amount of the drug involved is 1271
within that range and if the offense was committed in the 1272
vicinity of a school, in the vicinity of a juvenile, or in the 1273
vicinity of a substance addiction services provider or a 1274
recovering addict, trafficking in heroin is a felony of the 1275
first degree, and the court shall impose as a mandatory prison 1276
term a first degree felony mandatory prison term. 1277

(f) If the amount of the drug involved equals or exceeds 1278
five hundred unit doses but is less than one thousand unit doses 1279
or equals or exceeds fifty grams but is less than one hundred 1280
grams and regardless of whether the offense was committed in the 1281

vicinity of a school, in the vicinity of a juvenile, or in the 1282
vicinity of a substance addiction services provider or a 1283
recovering addict, trafficking in heroin is a felony of the 1284
first degree, and the court shall impose as a mandatory prison 1285
term a first degree felony mandatory prison term. 1286

(g) If the amount of the drug involved equals or exceeds 1287
one thousand unit doses or equals or exceeds one hundred grams 1288
and regardless of whether the offense was committed in the 1289
vicinity of a school, in the vicinity of a juvenile, or in the 1290
vicinity of a substance addiction services provider or a 1291
recovering addict, trafficking in heroin is a felony of the 1292
first degree, the offender is a major drug offender, and the 1293
court shall impose as a mandatory prison term a maximum first 1294
degree felony mandatory prison term. 1295

(7) If the drug involved in the violation is hashish or a 1296
compound, mixture, preparation, or substance containing hashish, 1297
whoever violates division (A) of this section is guilty of 1298
trafficking in hashish. The penalty for the offense shall be 1299
determined as follows: 1300

(a) Except as otherwise provided in division (C) (7) (b), 1301
(c), (d), (e), (f), or (g) of this section, trafficking in 1302
hashish is a felony of the fifth degree, and division (B) of 1303
section 2929.13 of the Revised Code applies in determining 1304
whether to impose a prison term on the offender. 1305

(b) Except as otherwise provided in division (C) (7) (c), 1306
(d), (e), (f), or (g) of this section, if the offense was 1307
committed in the vicinity of a school, in the vicinity of a 1308
juvenile, or in the vicinity of a substance addiction services 1309
provider or a recovering addict, trafficking in hashish is a 1310
felony of the fourth degree, and division (B) of section 2929.13 1311

of the Revised Code applies in determining whether to impose a 1312
prison term on the offender. 1313

(c) Except as otherwise provided in this division, if the 1314
amount of the drug involved equals or exceeds ten grams but is 1315
less than fifty grams of hashish in a solid form or equals or 1316
exceeds two grams but is less than ten grams of hashish in a 1317
liquid concentrate, liquid extract, or liquid distillate form, 1318
trafficking in hashish is a felony of the fourth degree, and 1319
division (B) of section 2929.13 of the Revised Code applies in 1320
determining whether to impose a prison term on the offender. If 1321
the amount of the drug involved is within that range and if the 1322
offense was committed in the vicinity of a school, in the 1323
vicinity of a juvenile, or in the vicinity of a substance 1324
addiction services provider or a recovering addict, trafficking 1325
in hashish is a felony of the third degree, and division (C) of 1326
section 2929.13 of the Revised Code applies in determining 1327
whether to impose a prison term on the offender. 1328

(d) Except as otherwise provided in this division, if the 1329
amount of the drug involved equals or exceeds fifty grams but is 1330
less than two hundred fifty grams of hashish in a solid form or 1331
equals or exceeds ten grams but is less than fifty grams of 1332
hashish in a liquid concentrate, liquid extract, or liquid 1333
distillate form, trafficking in hashish is a felony of the third 1334
degree, and division (C) of section 2929.13 of the Revised Code 1335
applies in determining whether to impose a prison term on the 1336
offender. If the amount of the drug involved is within that 1337
range and if the offense was committed in the vicinity of a 1338
school, in the vicinity of a juvenile, or in the vicinity of a 1339
substance addiction services provider or a recovering addict, 1340
trafficking in hashish is a felony of the second degree, and 1341
there is a presumption that a prison term shall be imposed for 1342

the offense. 1343

(e) Except as otherwise provided in this division, if the 1344
amount of the drug involved equals or exceeds two hundred fifty 1345
grams but is less than one thousand grams of hashish in a solid 1346
form or equals or exceeds fifty grams but is less than two 1347
hundred grams of hashish in a liquid concentrate, liquid 1348
extract, or liquid distillate form, trafficking in hashish is a 1349
felony of the third degree, and there is a presumption that a 1350
prison term shall be imposed for the offense. If the amount of 1351
the drug involved is within that range and if the offense was 1352
committed in the vicinity of a school, in the vicinity of a 1353
juvenile, or in the vicinity of a substance addiction services 1354
provider or a recovering addict, trafficking in hashish is a 1355
felony of the second degree, and there is a presumption that a 1356
prison term shall be imposed for the offense. 1357

(f) Except as otherwise provided in this division, if the 1358
amount of the drug involved equals or exceeds one thousand grams 1359
but is less than two thousand grams of hashish in a solid form 1360
or equals or exceeds two hundred grams but is less than four 1361
hundred grams of hashish in a liquid concentrate, liquid 1362
extract, or liquid distillate form, trafficking in hashish is a 1363
felony of the second degree, and the court shall impose as a 1364
mandatory prison term a second degree felony mandatory prison 1365
term of five, six, seven, or eight years. If the amount of the 1366
drug involved is within that range and if the offense was 1367
committed in the vicinity of a school, in the vicinity of a 1368
juvenile, or in the vicinity of a substance addiction services 1369
provider or a recovering addict, trafficking in hashish is a 1370
felony of the first degree, and the court shall impose as a 1371
mandatory prison term a maximum first degree felony mandatory 1372
prison term. 1373

(g) Except as otherwise provided in this division, 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, trafficking in 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. 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 and if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in hashish 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.

(8) If the drug involved in the violation 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 trafficking in 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), (f), or (g) of this section, trafficking in a controlled substance analog is a felony of the fifth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C) (8) (c), (d), (e), (f), or (g) of this section, if the offense was

committed in the vicinity of a school, in the vicinity of a 1404
juvenile, or in the vicinity of a substance addiction services 1405
provider or a recovering addict, trafficking in a controlled 1406
substance analog is a felony of the fourth degree, and division 1407
(C) of section 2929.13 of the Revised Code applies in 1408
determining whether to impose a prison term on the offender. 1409

(c) Except as otherwise provided in this division, if the 1410
amount of the drug involved equals or exceeds ten grams but is 1411
less than twenty grams, trafficking in a controlled substance 1412
analog is a felony of the fourth degree, and division (B) of 1413
section 2929.13 of the Revised Code applies in determining 1414
whether to impose a prison term for the offense. If the amount 1415
of the drug involved is within that range and if the offense was 1416
committed in the vicinity of a school, in the vicinity of a 1417
juvenile, or in the vicinity of a substance addiction services 1418
provider or a recovering addict, trafficking in a controlled 1419
substance analog is a felony of the third degree, and there is a 1420
presumption for a prison term for the offense. 1421

(d) Except as otherwise provided in this division, if the 1422
amount of the drug involved equals or exceeds twenty grams but 1423
is less than thirty grams, trafficking in a controlled substance 1424
analog is a felony of the third degree, and there is a 1425
presumption for a prison term for the offense. If the amount of 1426
the drug involved is within that range and if the offense was 1427
committed in the vicinity of a school, in the vicinity of a 1428
juvenile, or in the vicinity of a substance addiction services 1429
provider or a recovering addict, trafficking in a controlled 1430
substance analog is a felony of the second degree, and there is 1431
a presumption for a prison term for the offense. 1432

(e) Except as otherwise provided in this division, if the 1433

amount of the drug involved equals or exceeds thirty grams but 1434
is less than forty grams, trafficking in a controlled substance 1435
analog is a felony of the second degree, and the court shall 1436
impose as a mandatory prison term a second degree felony 1437
mandatory prison term. If the amount of the drug involved is 1438
within that range and if the offense was committed in the 1439
vicinity of a school, in the vicinity of a juvenile, or in the 1440
vicinity of a substance addiction services provider or a 1441
recovering addict, trafficking in a controlled substance analog 1442
is a felony of the first degree, and the court shall impose as a 1443
mandatory prison term a first degree felony mandatory prison 1444
term. 1445

(f) If the amount of the drug involved equals or exceeds 1446
forty grams but is less than fifty grams and regardless of 1447
whether the offense was committed in the vicinity of a school, 1448
in the vicinity of a juvenile, or in the vicinity of a substance 1449
addiction services provider or a recovering addict, trafficking 1450
in a controlled substance analog is a felony of the first 1451
degree, and the court shall impose as a mandatory prison term a 1452
first degree felony mandatory prison term. 1453

(g) If the amount of the drug involved equals or exceeds 1454
fifty grams and regardless of whether the offense was committed 1455
in the vicinity of a school, in the vicinity of a juvenile, or 1456
in the vicinity of a substance addiction services provider or a 1457
recovering addict, trafficking in a controlled substance analog 1458
is a felony of the first degree, the offender is a major drug 1459
offender, and the court shall impose as a mandatory prison term 1460
a maximum first degree felony mandatory prison term. 1461

(9) If the drug involved in the violation is a fentanyl- 1462
related compound or a compound, mixture, preparation, or 1463

substance containing a fentanyl-related compound and division 1464
(C) (10) (a) of this section does not apply to the drug involved, 1465
whoever violates division (A) of this section is guilty of 1466
trafficking in a fentanyl-related compound. The penalty for the 1467
offense shall be determined as follows: 1468

(a) Except as otherwise provided in division (C) (9) (b), 1469
(c), (d), (e), (f), (g), or (h) of this section, trafficking in 1470
a fentanyl-related compound is a felony of the fifth degree, and 1471
division (B) of section 2929.13 of the Revised Code applies in 1472
determining whether to impose a prison term on the offender. 1473

(b) Except as otherwise provided in division (C) (9) (c), 1474
(d), (e), (f), (g), or (h) of this section, if the offense was 1475
committed in the vicinity of a school, in the vicinity of a 1476
juvenile, or in the vicinity of a substance addiction services 1477
provider or a recovering addict, trafficking in a fentanyl- 1478
related compound is a felony of the fourth degree, and division 1479
(C) of section 2929.13 of the Revised Code applies in 1480
determining whether to impose a prison term on the offender. 1481

(c) Except as otherwise provided in this division, if the 1482
amount of the drug involved equals or exceeds ten unit doses but 1483
is less than fifty unit doses or equals or exceeds one gram but 1484
is less than five grams, trafficking in a fentanyl-related 1485
compound is a felony of the fourth degree, and division (B) of 1486
section 2929.13 of the Revised Code applies in determining 1487
whether to impose a prison term for the offense. If the amount 1488
of the drug involved is within that range and if the offense was 1489
committed in the vicinity of a school, in the vicinity of a 1490
juvenile, or in the vicinity of a substance addiction services 1491
provider or a recovering addict, trafficking in a fentanyl- 1492
related compound is a felony of the third degree, and there is a 1493

presumption for a prison term for the offense. 1494

(d) Except as otherwise provided in this division, if the 1495
amount of the drug involved equals or exceeds fifty unit doses 1496
but is less than one hundred unit doses or equals or exceeds 1497
five grams but is less than ten grams, trafficking in a 1498
fentanyl-related compound is a felony of the third degree, and 1499
there is a presumption for a prison term for the offense. If the 1500
amount of the drug involved is within that range and if the 1501
offense was committed in the vicinity of a school, in the 1502
vicinity of a juvenile, or in the vicinity of a substance 1503
addiction services provider or a recovering addict, trafficking 1504
in a fentanyl-related compound is a felony of the second degree, 1505
and there is a presumption for a prison term for the offense. 1506

(e) Except as otherwise provided in this division, if the 1507
amount of the drug involved equals or exceeds one hundred unit 1508
doses but is less than two hundred unit doses or equals or 1509
exceeds ten grams but is less than twenty grams, trafficking in 1510
a fentanyl-related compound is a felony of the second degree, 1511
and the court shall impose as a mandatory prison term one of the 1512
prison terms prescribed for a felony of the second degree. If 1513
the amount of the drug involved is within that range and if the 1514
offense was committed in the vicinity of a school, in the 1515
vicinity of a juvenile, or in the vicinity of a substance 1516
addiction services provider or a recovering addict, trafficking 1517
in a fentanyl-related compound is a felony of the first degree, 1518
and the court shall impose as a mandatory prison term one of the 1519
prison terms prescribed for a felony of the first degree. 1520

(f) If the amount of the drug involved equals or exceeds 1521
two hundred unit doses but is less than five hundred unit doses 1522
or equals or exceeds twenty grams but is less than fifty grams 1523

and regardless of whether the offense was committed in the 1524
vicinity of a school, in the vicinity of a juvenile, or in the 1525
vicinity of a substance addiction services provider or a 1526
recovering addict, trafficking in a fentanyl-related compound is 1527
a felony of the first degree, and the court shall impose as a 1528
mandatory prison term one of the prison terms prescribed for a 1529
felony of the first degree. 1530

(g) If the amount of the drug involved equals or exceeds 1531
five hundred unit doses but is less than one thousand unit doses 1532
or equals or exceeds fifty grams but is less than one hundred 1533
grams and regardless of whether the offense was committed in the 1534
vicinity of a school, in the vicinity of a juvenile, or in the 1535
vicinity of a substance addiction services provider or a 1536
recovering addict, trafficking in a fentanyl-related compound is 1537
a felony of the first degree, and the court shall impose as a 1538
mandatory prison term the maximum prison term prescribed for a 1539
felony of the first degree. 1540

(h) If the amount of the drug involved equals or exceeds 1541
one thousand unit doses or equals or exceeds one hundred grams 1542
and regardless of whether the offense was committed in the 1543
vicinity of a school, in the vicinity of a juvenile, or in the 1544
vicinity of a substance addiction services provider or a 1545
recovering addict, trafficking in a fentanyl-related compound is 1546
a felony of the first degree, the offender is a major drug 1547
offender, and the court shall impose as a mandatory prison term 1548
the maximum prison term prescribed for a felony of the first 1549
degree. 1550

(10) If the drug involved in the violation is a compound, 1551
mixture, preparation, or substance that is a combination of a 1552
fentanyl-related compound and marihuana, one of the following 1553

applies: 1554

(a) Except as otherwise provided in division (C)(10)(b) of 1555
this section, the offender is guilty of trafficking in marihuana 1556
and shall be punished under division (C)(3) of this section. The 1557
offender is not guilty of trafficking in a fentanyl-related 1558
compound and shall not be charged with, convicted of, or 1559
punished under division (C)(9) of this section for trafficking 1560
in a fentanyl-related compound. 1561

(b) If the offender knows or has reason to know that the 1562
compound, mixture, preparation, or substance that is the drug 1563
involved contains a fentanyl-related compound, the offender is 1564
guilty of trafficking in a fentanyl-related compound and shall 1565
be punished under division (C)(9) of this section. 1566

(D) In addition to any prison term authorized or required 1567
by division (C) of this section and sections 2929.13 and 2929.14 1568
of the Revised Code, and in addition to any other sanction 1569
imposed for the offense under this section or sections 2929.11 1570
to 2929.18 of the Revised Code, the court that sentences an 1571
offender who is convicted of or pleads guilty to a violation of 1572
division (A) of this section may suspend the driver's or 1573
commercial driver's license or permit of the offender in 1574
accordance with division (G) of this section. However, if the 1575
offender pleaded guilty to or was convicted of a violation of 1576
section 4511.19 of the Revised Code or a substantially similar 1577
municipal ordinance or the law of another state or the United 1578
States arising out of the same set of circumstances as the 1579
violation, the court shall suspend the offender's driver's or 1580
commercial driver's license or permit in accordance with 1581
division (G) of this section. If applicable, the court also 1582
shall do the following: 1583

(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. Except as otherwise provided in division (H)(1) of this section, a mandatory fine or any other fine imposed for a violation of this section is subject to division (F) of this section. 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 of the court shall pay the forfeited bail pursuant to divisions (D)(1) and (F) of this section, as if the forfeited bail was a fine imposed for a violation of this section. If any amount of the forfeited bail remains after that payment and if a fine is imposed under division (H)(1) of this section, the clerk of the court shall pay the remaining amount of the forfeited bail pursuant to divisions (H)(2) and (3) of this section, as if that remaining amount was a fine imposed under division (H)(1) 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) When a person is charged with the sale of or offer to sell a bulk amount or a multiple of a bulk amount of a controlled substance, the jury, or the court trying the accused, shall determine the amount of the controlled substance involved at the time of the offense and, if a guilty verdict is returned, shall return the findings as part of the verdict. In any such case, it is unnecessary to find and return the exact amount of the controlled substance involved, and it is sufficient if the

finding and return is to the effect that the amount of the 1615
controlled substance involved is the requisite amount, or that 1616
the amount of the controlled substance involved is less than the 1617
requisite amount. 1618

(F) (1) Notwithstanding any contrary provision of section 1619
3719.21 of the Revised Code and except as provided in division 1620
(H) of this section, the clerk of the court shall pay any 1621
mandatory fine imposed pursuant to division (D) (1) of this 1622
section and any fine other than a mandatory fine that is imposed 1623
for a violation of this section pursuant to division (A) or (B) 1624
(5) of section 2929.18 of the Revised Code to the county, 1625
township, municipal corporation, park district, as created 1626
pursuant to section 511.18 or 1545.04 of the Revised Code, or 1627
state law enforcement agencies in this state that primarily were 1628
responsible for or involved in making the arrest of, and in 1629
prosecuting, the offender. However, the clerk shall not pay a 1630
mandatory fine so imposed to a law enforcement agency unless the 1631
agency has adopted a written internal control policy under 1632
division (F) (2) of this section that addresses the use of the 1633
fine moneys that it receives. Each agency shall use the 1634
mandatory fines so paid to subsidize the agency's law 1635
enforcement efforts that pertain to drug offenses, in accordance 1636
with the written internal control policy adopted by the 1637
recipient agency under division (F) (2) of this section. 1638

(2) Prior to receiving any fine moneys under division (F) 1639
(1) of this section or division (B) of section 2925.42 of the 1640
Revised Code, a law enforcement agency shall adopt a written 1641
internal control policy that addresses the agency's use and 1642
disposition of all fine moneys so received and that provides for 1643
the keeping of detailed financial records of the receipts of 1644
those fine moneys, the general types of expenditures made out of 1645

those fine moneys, and the specific amount of each general type 1646
of expenditure. The policy shall not provide for or permit the 1647
identification of any specific expenditure that is made in an 1648
ongoing investigation. All financial records of the receipts of 1649
those fine moneys, the general types of expenditures made out of 1650
those fine moneys, and the specific amount of each general type 1651
of expenditure by an agency are public records open for 1652
inspection under section 149.43 of the Revised Code. 1653
Additionally, a written internal control policy adopted under 1654
this division is such a public record, and the agency that 1655
adopted it shall comply with it. 1656

(3) As used in division (F) of this section: 1657

(a) "Law enforcement agencies" includes, but is not 1658
limited to, the state board of pharmacy and the office of a 1659
prosecutor. 1660

(b) "Prosecutor" has the same meaning as in section 1661
2935.01 of the Revised Code. 1662

(G) (1) If the sentencing court suspends the offender's 1663
driver's or commercial driver's license or permit under division 1664
(D) of this section or any other provision of this chapter, the 1665
court shall suspend the license, by order, for not more than 1666
five years. If an offender's driver's or commercial driver's 1667
license or permit is suspended pursuant to this division, the 1668
offender, at any time after the expiration of two years from the 1669
day on which the offender's sentence was imposed or from the day 1670
on which the offender finally was released from a prison term 1671
under the sentence, whichever is later, may file a motion with 1672
the sentencing court requesting termination of the suspension; 1673
upon the filing of such a motion and the court's finding of good 1674
cause for the termination, the court may terminate the 1675

suspension. 1676

(2) Any offender who received a mandatory suspension of 1677
the offender's driver's or commercial driver's license or permit 1678
under this section prior to September 13, 2016, may file a 1679
motion with the sentencing court requesting the termination of 1680
the suspension. However, an offender who pleaded guilty to or 1681
was convicted of a violation of section 4511.19 of the Revised 1682
Code or a substantially similar municipal ordinance or law of 1683
another state or the United States that arose out of the same 1684
set of circumstances as the violation for which the offender's 1685
license or permit was suspended under this section shall not 1686
file such a motion. 1687

Upon the filing of a motion under division (G) (2) of this 1688
section, the sentencing court, in its discretion, may terminate 1689
the suspension. 1690

(H) (1) In addition to any prison term authorized or 1691
required by division (C) of this section and sections 2929.13 1692
and 2929.14 of the Revised Code, in addition to any other 1693
penalty or sanction imposed for the offense under this section 1694
or sections 2929.11 to 2929.18 of the Revised Code, and in 1695
addition to the forfeiture of property in connection with the 1696
offense as prescribed in Chapter 2981. of the Revised Code, the 1697
court that sentences an offender who is convicted of or pleads 1698
guilty to a violation of division (A) of this section may impose 1699
upon the offender an additional fine specified for the offense 1700
in division (B) (4) of section 2929.18 of the Revised Code. A 1701
fine imposed under division (H) (1) of this section is not 1702
subject to division (F) of this section and shall be used solely 1703
for the support of one or more eligible community addiction 1704
services providers in accordance with divisions (H) (2) and (3) 1705

of this section. 1706

(2) The court that imposes a fine under division (H) (1) of 1707
this section shall specify in the judgment that imposes the fine 1708
one or more eligible community addiction services providers for 1709
the support of which the fine money is to be used. No community 1710
addiction services provider shall receive or use money paid or 1711
collected in satisfaction of a fine imposed under division (H) 1712
(1) of this section unless the services provider is specified in 1713
the judgment that imposes the fine. No community addiction 1714
services provider shall be specified in the judgment unless the 1715
services provider is an eligible community addiction services 1716
provider and, except as otherwise provided in division (H) (2) of 1717
this section, unless the services provider is located in the 1718
county in which the court that imposes the fine is located or in 1719
a county that is immediately contiguous to the county in which 1720
that court is located. If no eligible community addiction 1721
services provider is located in any of those counties, the 1722
judgment may specify an eligible community addiction services 1723
provider that is located anywhere within this state. 1724

(3) Notwithstanding any contrary provision of section 1725
3719.21 of the Revised Code, the clerk of the court shall pay 1726
any fine imposed under division (H) (1) of this section to the 1727
eligible community addiction services provider specified 1728
pursuant to division (H) (2) of this section in the judgment. The 1729
eligible community addiction services provider that receives the 1730
fine moneys shall use the moneys only for the alcohol and drug 1731
addiction services identified in the application for 1732
certification of services under section 5119.36 of the Revised 1733
Code or in the application for a license under section 5119.37 1734
of the Revised Code filed with the department of mental health 1735
and addiction services by the community addiction services 1736

provider specified in the judgment. 1737

(4) Each community addiction services provider that 1738
receives in a calendar year any fine moneys under division (H) 1739
(3) of this section shall file an annual report covering that 1740
calendar year with the court of common pleas and the board of 1741
county commissioners of the county in which the services 1742
provider is located, with the court of common pleas and the 1743
board of county commissioners of each county from which the 1744
services provider received the moneys if that county is 1745
different from the county in which the services provider is 1746
located, and with the attorney general. The community addiction 1747
services provider shall file the report no later than the first 1748
day of March in the calendar year following the calendar year in 1749
which the services provider received the fine moneys. The report 1750
shall include statistics on the number of persons served by the 1751
community addiction services provider, identify the types of 1752
alcohol and drug addiction services provided to those persons, 1753
and include a specific accounting of the purposes for which the 1754
fine moneys received were used. No information contained in the 1755
report shall identify, or enable a person to determine the 1756
identity of, any person served by the community addiction 1757
services provider. Each report received by a court of common 1758
pleas, a board of county commissioners, or the attorney general 1759
is a public record open for inspection under section 149.43 of 1760
the Revised Code. 1761

(5) As used in divisions (H) (1) to (5) of this section: 1762

(a) "Community addiction services provider" and "alcohol 1763
and drug addiction services" have the same meanings as in 1764
section 5119.01 of the Revised Code. 1765

(b) "Eligible community addiction services provider" means 1766

a community addiction services provider, including a community 1767
addiction services provider that operates an opioid treatment 1768
program licensed under section 5119.37 of the Revised Code. 1769

(I) As used in this section, "drug" includes any substance 1770
that is represented to be a drug. 1771

(J) It is an affirmative defense to a charge of 1772
trafficking in a controlled substance analog under division (C) 1773
(8) of this section that the person charged with violating that 1774
offense sold or offered to sell, or prepared for shipment, 1775
shipped, transported, delivered, prepared for distribution, or 1776
distributed one of the following items that are excluded from 1777
the meaning of "controlled substance analog" under section 1778
3719.01 of the Revised Code: 1779

(1) A controlled substance; 1780

(2) Any substance for which there is an approved new drug 1781
application; 1782

(3) With respect to a particular person, any substance if 1783
an exemption is in effect for investigational use for that 1784
person pursuant to federal law to the extent that conduct with 1785
respect to that substance is pursuant to that exemption. 1786

Sec. 2925.04. (A) No person shall knowingly cultivate 1787
marihuana or knowingly manufacture or otherwise engage in any 1788
part of the production of a controlled substance. 1789

(B) This section does not apply to any of the following: 1790

(1) Cultivators, processors, testing laboratories, 1791
registered patients, and adult consumers engaging in any 1792
activity in accordance with Chapter 3796. of the Revised Code. 1793

(2) A person listed in division (B) (1), (2), or (3) of 1794

section 2925.03 of the Revised Code to the extent and under the 1795
circumstances described in those divisions. 1796

(C) (1) Whoever commits a violation of division (A) of this 1797
section that involves any drug other than marihuana is guilty of 1798
illegal manufacture of drugs, and whoever commits a violation of 1799
division (A) of this section that involves marihuana is guilty 1800
of illegal cultivation of marihuana. 1801

(2) Except as otherwise provided in this division, if the 1802
drug involved in the violation of division (A) of this section 1803
is any compound, mixture, preparation, or substance included in 1804
schedule I or II, with the exception of methamphetamine or 1805
marihuana, illegal manufacture of drugs is a felony of the 1806
second degree, and, subject to division (E) of this section, the 1807
court shall impose as a mandatory prison term a second degree 1808
felony mandatory prison term. 1809

If the drug involved in the violation is any compound, 1810
mixture, preparation, or substance included in schedule I or II, 1811
with the exception of methamphetamine or marihuana, and if the 1812
offense was committed in the vicinity of a juvenile or in the 1813
vicinity of a school, illegal manufacture of drugs is a felony 1814
of the first degree, and, subject to division (E) of this 1815
section, the court shall impose as a mandatory prison term a 1816
first degree felony mandatory prison term. 1817

(3) If the drug involved in the violation of division (A) 1818
of this section is methamphetamine, the penalty for the 1819
violation shall be determined as follows: 1820

(a) Except as otherwise provided in division (C) (3) (b) of 1821
this section, if the drug involved in the violation is 1822
methamphetamine, illegal manufacture of drugs is a felony of the 1823

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 1884
determining whether to impose a prison term on the offender. 1885

(e) If the amount of marihuana involved equals or exceeds 1886
five thousand grams but is less than twenty thousand grams, 1887
illegal cultivation of marihuana is a felony of the third degree 1888
or, if the offense was committed in the vicinity of a school or 1889
in the vicinity of a juvenile, a felony of the second degree, 1890
and there is a presumption for a prison term for the offense. 1891

(f) Except as otherwise provided in this division, if the 1892
amount of marihuana involved equals or exceeds twenty thousand 1893
grams, illegal cultivation of marihuana is a felony of the 1894
second degree, and the court shall impose as a mandatory prison 1895
term a maximum second degree felony mandatory prison term. If 1896
the amount of the drug involved equals or exceeds twenty 1897
thousand grams and if the offense was committed in the vicinity 1898
of a school or in the vicinity of a juvenile, illegal 1899
cultivation of marihuana is a felony of the first degree, and 1900
the court shall impose as a mandatory prison term a maximum 1901
first degree felony mandatory prison term. 1902

(D) In addition to any prison term authorized or required 1903
by division (C) or (E) of this section and sections 2929.13 and 1904
2929.14 of the Revised Code and in addition to any other 1905
sanction imposed for the offense under this section or sections 1906
2929.11 to 2929.18 of the Revised Code, the court that sentences 1907
an offender who is convicted of or pleads guilty to a violation 1908
of division (A) of this section may suspend the offender's 1909
driver's or commercial driver's license or permit in accordance 1910
with division (G) of section 2925.03 of the Revised Code. 1911
However, if the offender pleaded guilty to or was convicted of a 1912
violation of section 4511.19 of the Revised Code or a 1913

substantially similar municipal ordinance or the law of another 1914
state or the United States arising out of the same set of 1915
circumstances as the violation, the court shall suspend the 1916
offender's driver's or commercial driver's license or permit in 1917
accordance with division (G) of section 2925.03 of the Revised 1918
Code. If applicable, the court also shall do the following: 1919

(1) If the violation of division (A) of this section is a 1920
felony of the first, second, or third degree, the court shall 1921
impose upon the offender the mandatory fine specified for the 1922
offense under division (B) (1) of section 2929.18 of the Revised 1923
Code unless, as specified in that division, the court determines 1924
that the offender is indigent. The clerk of the court shall pay 1925
a mandatory fine or other fine imposed for a violation of this 1926
section pursuant to division (A) of section 2929.18 of the 1927
Revised Code in accordance with and subject to the requirements 1928
of division (F) of section 2925.03 of the Revised Code. The 1929
agency that receives the fine shall use the fine as specified in 1930
division (F) of section 2925.03 of the Revised Code. If a person 1931
is charged with a violation of this section that is a felony of 1932
the first, second, or third degree, posts bail, and forfeits the 1933
bail, the clerk shall pay the forfeited bail as if the forfeited 1934
bail were a fine imposed for a violation of this section. 1935

(2) If the offender is a professionally licensed person, 1936
the court immediately shall comply with section 2925.38 of the 1937
Revised Code. 1938

(E) Notwithstanding the prison term otherwise authorized 1939
or required for the offense under division (C) of this section 1940
and sections 2929.13 and 2929.14 of the Revised Code, if the 1941
violation of division (A) of this section involves the sale, 1942
offer to sell, or possession of a schedule I or II controlled 1943

substance, with the exception of marihuana, and if the court 1944
imposing sentence upon the offender finds that the offender as a 1945
result of the violation is a major drug offender and is guilty 1946
of a specification of the type described in division (A) of 1947
section 2941.1410 of the Revised Code, the court, in lieu of the 1948
prison term otherwise authorized or required, shall impose upon 1949
the offender the mandatory prison term specified in division (B) 1950
(3) of section 2929.14 of the Revised Code. 1951

(F) It is an affirmative defense, as provided in section 1952
2901.05 of the Revised Code, to a charge under this section for 1953
a fifth degree felony violation of illegal cultivation of 1954
marihuana that the marihuana that gave rise to the charge is in 1955
an amount, is in a form, is prepared, compounded, or mixed with 1956
substances that are not controlled substances in a manner, or is 1957
possessed or cultivated under any other circumstances that 1958
indicate that the marihuana was solely for personal use. 1959

Notwithstanding any contrary provision of division (F) of 1960
this section, if, in accordance with section 2901.05 of the 1961
Revised Code, a person who is charged with a violation of 1962
illegal cultivation of marihuana that is a felony of the fifth 1963
degree sustains the burden of going forward with evidence of and 1964
establishes by a preponderance of the evidence the affirmative 1965
defense described in this division, the person may be prosecuted 1966
for and may be convicted of or plead guilty to a misdemeanor 1967
violation of illegal cultivation of marihuana. 1968

(G) Arrest or conviction for a minor misdemeanor violation 1969
of this section does not constitute a criminal record and need 1970
not be reported by the person so arrested or convicted in 1971
response to any inquiries about the person's criminal record, 1972
including any inquiries contained in an application for 1973

employment, a license, or any other right or privilege or made 1974
in connection with the person's appearance as a witness. 1975

(H) (1) If the sentencing court suspends the offender's 1976
driver's or commercial driver's license or permit under this 1977
section in accordance with division (G) of section 2925.03 of 1978
the Revised Code, the offender may request termination of, and 1979
the court may terminate, the suspension of the offender in 1980
accordance with that division. 1981

(2) Any offender who received a mandatory suspension of 1982
the offender's driver's or commercial driver's license or permit 1983
under this section prior to September 13, 2016, may file a 1984
motion with the sentencing court requesting the termination of 1985
the suspension. However, an offender who pleaded guilty to or 1986
was convicted of a violation of section 4511.19 of the Revised 1987
Code or a substantially similar municipal ordinance or law of 1988
another state or the United States that arose out of the same 1989
set of circumstances as the violation for which the offender's 1990
license or permit was suspended under this section shall not 1991
file such a motion. 1992

Upon the filing of a motion under division (H) (2) of this 1993
section, the sentencing court, in its discretion, may terminate 1994
the suspension. 1995

Sec. 2925.11. (A) No person shall knowingly obtain, 1996
possess, or use a controlled substance or a controlled substance 1997
analog. 1998

(B) (1) This section does not apply to any of the 1999
following: 2000

(a) Manufacturers, licensed health professionals 2001
authorized to prescribe drugs, pharmacists, owners of 2002

pharmacies, cultivators, processors, testing laboratories, 2003
registered patients, adult consumers, and other persons whose 2004
conduct was in accordance with Chapters 3719., 3796., 4715., 2005
4723., 4729., 4730., 4731., and 4741. of the Revised Code; 2006

(b) If the offense involves an anabolic steroid, any 2007
person who is conducting or participating in a research project 2008
involving the use of an anabolic steroid if the project has been 2009
approved by the United States food and drug administration; 2010

(c) Any person who sells, offers for sale, prescribes, 2011
dispenses, or administers for livestock or other nonhuman 2012
species an anabolic steroid that is expressly intended for 2013
administration through implants to livestock or other nonhuman 2014
species and approved for that purpose under the "Federal Food, 2015
Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, 2016
as amended, and is sold, offered for sale, prescribed, 2017
dispensed, or administered for that purpose in accordance with 2018
that act; 2019

~~(d)~~ (d) (i) Any person who obtained the controlled substance 2020
pursuant to a prescription issued by a licensed health 2021
professional authorized to prescribe drugs if the prescription 2022
was issued for a legitimate medical purpose and not altered, 2023
forged, or obtained through deception or commission of a theft 2024
offense. 2025

(ii) As used in division ~~(B) (1) (d)~~ (B) (1) (d) (i) of this 2026
section, "deception" and "theft offense" have the same meanings 2027
as in section 2913.01 of the Revised Code. 2028

(e) Possession of less than fifty grams of marihuana, less 2029
than eight grams of hashish in a solid form, or less than two 2030
grams of hashish in a liquid concentrate, liquid extract, or 2031

<u>liquid distillate form.</u>	2032
(2) (a) As used in division (B) (2) of this section:	2033
(i) "Community addiction services provider" has the same meaning as in section 5119.01 of the Revised Code.	2034 2035
(ii) "Community control sanction" and "drug treatment program" have the same meanings as in section 2929.01 of the Revised Code.	2036 2037 2038
(iii) "Health care facility" has the same meaning as in section 2919.16 of the Revised Code.	2039 2040
(iv) "Minor drug possession offense" means a violation of this section that is a misdemeanor or a felony of the fifth degree.	2041 2042 2043
(v) "Post-release control sanction" has the same meaning as in section 2967.28 of the Revised Code.	2044 2045
(vi) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.	2046 2047
(vii) "Public agency" has the same meaning as in section 2930.01 of the Revised Code.	2048 2049
(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.	2050 2051 2052 2053 2054 2055 2056
(ix) "Seek or obtain medical assistance" includes, but is not limited to making a 9-1-1 call, contacting in person or by	2057 2058

telephone call an on-duty peace officer, or transporting or 2059
presenting a person to a health care facility. 2060

(b) Subject to division (B) (2) (e) of this section, a 2061
qualified individual shall not be arrested, charged, prosecuted, 2062
convicted, or penalized pursuant to this chapter for a minor 2063
drug possession offense or a violation of section 2925.127, or 2064
division (C) (1) of section 2925.14, ~~or section 2925.141~~ of the 2065
Revised Code if all of the following apply: 2066

(i) The evidence of the obtaining, possession, or use of 2067
the controlled substance or controlled substance analog, drug 2068
abuse instruments, or drug paraphernalia that would be the basis 2069
of the offense was obtained as a result of the qualified 2070
individual seeking the medical assistance or experiencing an 2071
overdose and needing medical assistance. 2072

(ii) Subject to division (B) (2) (f) of this section, within 2073
thirty days after seeking or obtaining the medical assistance, 2074
the qualified individual seeks and obtains a screening and 2075
receives a referral for treatment from a community addiction 2076
services provider or a properly credentialed addiction treatment 2077
professional. 2078

(iii) Subject to division (B) (2) (f) of this section, the 2079
qualified individual who obtains a screening and receives a 2080
referral for treatment under division (B) (2) (b) (ii) of this 2081
section, upon the request of any prosecuting attorney, submits 2082
documentation to the prosecuting attorney that verifies that the 2083
qualified individual satisfied the requirements of that 2084
division. The documentation shall be limited to the date and 2085
time of the screening obtained and referral received. 2086

(c) If a person who is serving a community control 2087

sanction or is under a sanction on post-release control acts 2088
pursuant to division (B) (2) (b) of this section, then ~~division~~ 2089
~~(B) of section 2929.141,~~ division (B) (2) of section 2929.15, 2090
division (D) (3) of section 2929.25, or division (F) (3) of 2091
section 2967.28 of the Revised Code applies to the person with 2092
respect to any violation of the sanction or post-release control 2093
sanction based on a minor drug possession offense, as defined in 2094
section 2925.11 of the Revised Code, or a violation of section 2095
2925.12, or division (C) (1) of section 2925.14, ~~or section~~ 2096
~~2925.141~~ of the Revised Code. 2097

(d) Nothing in division (B) (2) (b) of this section shall be 2098
construed to do any of the following: 2099

(i) Limit the admissibility of any evidence in connection 2100
with the investigation or prosecution of a crime with regards to 2101
a defendant who does not qualify for the protections of division 2102
(B) (2) (b) of this section or with regards to any crime other 2103
than a minor drug possession offense or a violation of section 2104
2925.12, or division (C) (1) of section 2925.14, ~~or section~~ 2105
~~2925.141~~ of the Revised Code committed by a person who qualifies 2106
for protection pursuant to division (B) (2) (b) of this section; 2107

(ii) Limit any seizure of evidence or contraband otherwise 2108
permitted by law; 2109

(iii) Limit or abridge the authority of a peace officer to 2110
detain or take into custody a person in the course of an 2111
investigation or to effectuate an arrest for any offense except 2112
as provided in that division; 2113

(iv) Limit, modify, or remove any immunity from liability 2114
available pursuant to law in effect prior to September 13, 2016, 2115
to any public agency or to an employee of any public agency. 2116

(e) Division (B) (2) (b) of this section does not apply to 2117
any person who twice previously has been granted an immunity 2118
under division (B) (2) (b) of this section. No person shall be 2119
granted an immunity under division (B) (2) (b) of this section 2120
more than two times. 2121

(f) Nothing in this section shall compel any qualified 2122
individual to disclose protected health information in a way 2123
that conflicts with the requirements of the "Health Insurance 2124
Portability and Accountability Act of 1996," 104 Pub. L. No. 2125
191, 110 Stat. 2021, 42 U.S.C. 1320d et seq., as amended, and 2126
regulations promulgated by the United States department of 2127
health and human services to implement the act or the 2128
requirements of 42 C.F.R. Part 2. 2129

(C) Whoever violates division (A) of this section is 2130
guilty of one of the following: 2131

(1) If the drug involved in the violation is a compound, 2132
mixture, preparation, or substance included in schedule I or II, 2133
with the exception of marihuana, cocaine, L.S.D., heroin, any 2134
fentanyl-related compound, hashish, and any controlled substance 2135
analog, whoever violates division (A) of this section is guilty 2136
of aggravated possession of drugs. The penalty for the offense 2137
shall be determined as follows: 2138

(a) Except as otherwise provided in division (C) (1) (b), 2139
(c), (d), or (e) of this section, aggravated possession of drugs 2140
is a felony of the fifth degree, and division (B) of section 2141
2929.13 of the Revised Code applies in determining whether to 2142
impose a prison term on the offender. 2143

(b) If the amount of the drug involved equals or exceeds 2144
the bulk amount but is less than five times the bulk amount, 2145

aggravated possession of drugs is a felony of the third degree, 2146
and there is a presumption for a prison term for the offense. 2147

(c) If the amount of the drug involved equals or exceeds 2148
five times the bulk amount but is less than fifty times the bulk 2149
amount, aggravated possession of drugs is a felony of the second 2150
degree, and the court shall impose as a mandatory prison term a 2151
second degree felony mandatory prison term. 2152

(d) If the amount of the drug involved equals or exceeds 2153
fifty times the bulk amount but is less than one hundred times 2154
the bulk amount, aggravated possession of drugs is a felony of 2155
the first degree, and the court shall impose as a mandatory 2156
prison term a first degree felony mandatory prison term. 2157

(e) If the amount of the drug involved equals or exceeds 2158
one hundred times the bulk amount, aggravated possession of 2159
drugs is a felony of the first degree, the offender is a major 2160
drug offender, and the court shall impose as a mandatory prison 2161
term a maximum first degree felony mandatory prison term. 2162

(2) If the drug involved in the violation is a compound, 2163
mixture, preparation, or substance included in schedule III, IV, 2164
or V, whoever violates division (A) of this section is guilty of 2165
possession of drugs. The penalty for the offense shall be 2166
determined as follows: 2167

(a) Except as otherwise provided in division (C) (2) (b), 2168
(c), or (d) of this section, possession of drugs is a 2169
misdemeanor of the first degree or, if the offender previously 2170
has been convicted of a drug abuse offense, a felony of the 2171
fifth degree. 2172

(b) If the amount of the drug involved equals or exceeds 2173
the bulk amount but is less than five times the bulk amount, 2174

possession of drugs is a felony of the fourth degree, and 2175
division (C) of section 2929.13 of the Revised Code applies in 2176
determining whether to impose a prison term on the offender. 2177

(c) If the amount of the drug involved equals or exceeds 2178
five times the bulk amount but is less than fifty times the bulk 2179
amount, possession of drugs is a felony of the third degree, and 2180
there is a presumption for a prison term for the offense. 2181

(d) If the amount of the drug involved equals or exceeds 2182
fifty times the bulk amount, possession of drugs is a felony of 2183
the second degree, and the court shall impose upon the offender 2184
as a mandatory prison term a second degree felony mandatory 2185
prison term. 2186

(3) If the drug involved in the violation is marihuana or 2187
a compound, mixture, preparation, or substance containing 2188
marihuana other than hashish, whoever violates division (A) of 2189
this section is guilty of possession of marihuana. The penalty 2190
for the offense shall be determined as follows: 2191

~~(a) Except as otherwise provided in division (C) (3) (b),~~ 2192
~~(c), (d), (e), (f), or (g) of this section, possession of~~ 2193
~~marihuana is a minor misdemeanor.~~ 2194

~~(b)~~ If the amount of the drug involved equals or exceeds 2195
~~one hundred fifty~~ grams but is less than two hundred grams, 2196
possession of marihuana is a minor misdemeanor ~~of the fourth~~ 2197
~~degree.~~ 2198

~~(e)~~ (b) If the amount of the drug involved equals or 2199
exceeds two hundred grams but is less than one thousand grams, 2200
possession of marihuana is a felony of the fifth degree, and 2201
division (B) of section 2929.13 of the Revised Code applies in 2202
determining whether to impose a prison term on the offender. 2203

~~(d)~~ (c) If the amount of the drug involved equals or 2204
exceeds one thousand grams but is less than five thousand grams, 2205
possession of marihuana is a felony of the third degree, and 2206
division (C) of section 2929.13 of the Revised Code applies in 2207
determining whether to impose a prison term on the offender. 2208

~~(e)~~ (d) If the amount of the drug involved equals or 2209
exceeds five thousand grams but is less than twenty thousand 2210
grams, possession of marihuana is a felony of the third degree, 2211
and there is a presumption that a prison term shall be imposed 2212
for the offense. 2213

~~(f)~~ (e) If the amount of the drug involved equals or 2214
exceeds twenty thousand grams but is less than forty thousand 2215
grams, possession of marihuana is a felony of the second degree, 2216
and the court shall impose as a mandatory prison term a second 2217
degree felony mandatory prison term of five, six, seven, or 2218
eight years. 2219

~~(g)~~ (f) If the amount of the drug involved equals or 2220
exceeds forty thousand grams, possession of marihuana is a 2221
felony of the second degree, and the court shall impose as a 2222
mandatory prison term a maximum second degree felony mandatory 2223
prison term. 2224

(4) If the drug involved in the violation is cocaine or a 2225
compound, mixture, preparation, or substance containing cocaine, 2226
whoever violates division (A) of this section is guilty of 2227
possession of cocaine. The penalty for the offense shall be 2228
determined as follows: 2229

(a) Except as otherwise provided in division (C) (4) (b), 2230
(c), (d), (e), or (f) of this section, possession of cocaine is 2231
a felony of the fifth degree, and division (B) of section 2232

2929.13 of the Revised Code applies in determining whether to 2233
impose a prison term on the offender. 2234

(b) If the amount of the drug involved equals or exceeds 2235
five grams but is less than ten grams of cocaine, possession of 2236
cocaine is a felony of the fourth degree, and division (B) of 2237
section 2929.13 of the Revised Code applies in determining 2238
whether to impose a prison term on the offender. 2239

(c) If the amount of the drug involved equals or exceeds 2240
ten grams but is less than twenty grams of cocaine, possession 2241
of cocaine is a felony of the third degree, and, except as 2242
otherwise provided in this division, there is a presumption for 2243
a prison term for the offense. If possession of cocaine is a 2244
felony of the third degree under this division and if the 2245
offender two or more times previously has been convicted of or 2246
pleaded guilty to a felony drug abuse offense, the court shall 2247
impose as a mandatory prison term one of the prison terms 2248
prescribed for a felony of the third degree. 2249

(d) If the amount of the drug involved equals or exceeds 2250
twenty grams but is less than twenty-seven grams of cocaine, 2251
possession of cocaine is a felony of the second degree, and the 2252
court shall impose as a mandatory prison term a second degree 2253
felony mandatory prison term. 2254

(e) If the amount of the drug involved equals or exceeds 2255
twenty-seven grams but is less than one hundred grams of 2256
cocaine, possession of cocaine is a felony of the first degree, 2257
and the court shall impose as a mandatory prison term a first 2258
degree felony mandatory prison term. 2259

(f) If the amount of the drug involved equals or exceeds 2260
one hundred grams of cocaine, possession of cocaine is a felony 2261

of the first degree, the offender is a major drug offender, and 2262
the court shall impose as a mandatory prison term a maximum 2263
first degree felony mandatory prison term. 2264

(5) If the drug involved in the violation is L.S.D., 2265
whoever violates division (A) of this section is guilty of 2266
possession of L.S.D. The penalty for the offense shall be 2267
determined as follows: 2268

(a) Except as otherwise provided in division (C) (5) (b), 2269
(c), (d), (e), or (f) of this section, possession of L.S.D. is a 2270
felony of the fifth degree, and division (B) of section 2929.13 2271
of the Revised Code applies in determining whether to impose a 2272
prison term on the offender. 2273

(b) If the amount of L.S.D. involved equals or exceeds ten 2274
unit doses but is less than fifty unit doses of L.S.D. in a 2275
solid form or equals or exceeds one gram but is less than five 2276
grams of L.S.D. in a liquid concentrate, liquid extract, or 2277
liquid distillate form, possession of L.S.D. is a felony of the 2278
fourth degree, and division (C) of section 2929.13 of the 2279
Revised Code applies in determining whether to impose a prison 2280
term on the offender. 2281

(c) If the amount of L.S.D. involved equals or exceeds 2282
fifty unit doses, but is less than two hundred fifty unit doses 2283
of L.S.D. in a solid form or equals or exceeds five grams but is 2284
less than twenty-five grams of L.S.D. in a liquid concentrate, 2285
liquid extract, or liquid distillate form, possession of L.S.D. 2286
is a felony of the third degree, and there is a presumption for 2287
a prison term for the offense. 2288

(d) If the amount of L.S.D. involved equals or exceeds two 2289
hundred fifty unit doses but is less than one thousand unit 2290

doses of L.S.D. in a solid form or equals or exceeds twenty-five 2291
grams but is less than one hundred grams of L.S.D. in a liquid 2292
concentrate, liquid extract, or liquid distillate form, 2293
possession of L.S.D. is a felony of the second degree, and the 2294
court shall impose as a mandatory prison term a second degree 2295
felony mandatory prison term. 2296

(e) If the amount of L.S.D. involved equals or exceeds one 2297
thousand unit doses but is less than five thousand unit doses of 2298
L.S.D. in a solid form or equals or exceeds one hundred grams 2299
but is less than five hundred grams of L.S.D. in a liquid 2300
concentrate, liquid extract, or liquid distillate form, 2301
possession of L.S.D. is a felony of the first degree, and the 2302
court shall impose as a mandatory prison term a first degree 2303
felony mandatory prison term. 2304

(f) If the amount of L.S.D. involved equals or exceeds 2305
five thousand unit doses of L.S.D. in a solid form or equals or 2306
exceeds five hundred grams of L.S.D. in a liquid concentrate, 2307
liquid extract, or liquid distillate form, possession of L.S.D. 2308
is a felony of the first degree, the offender is a major drug 2309
offender, and the court shall impose as a mandatory prison term 2310
a maximum first degree felony mandatory prison term. 2311

(6) If the drug involved in the violation is heroin or a 2312
compound, mixture, preparation, or substance containing heroin, 2313
whoever violates division (A) of this section is guilty of 2314
possession of heroin. The penalty for the offense shall be 2315
determined as follows: 2316

(a) Except as otherwise provided in division (C) (6) (b), 2317
(c), (d), (e), or (f) of this section, possession of heroin is a 2318
felony of the fifth degree, and division (B) of section 2929.13 2319
of the Revised Code applies in determining whether to impose a 2320

prison term on the offender. 2321

(b) If the amount of the drug involved equals or exceeds 2322
ten unit doses but is less than fifty unit doses or equals or 2323
exceeds one gram but is less than five grams, possession of 2324
heroin is a felony of the fourth degree, and division (C) of 2325
section 2929.13 of the Revised Code applies in determining 2326
whether to impose a prison term on the offender. 2327

(c) If the amount of the drug involved equals or exceeds 2328
fifty unit doses but is less than one hundred unit doses or 2329
equals or exceeds five grams but is less than ten grams, 2330
possession of heroin is a felony of the third degree, and there 2331
is a presumption for a prison term for the offense. 2332

(d) If the amount of the drug involved equals or exceeds 2333
one hundred unit doses but is less than five hundred unit doses 2334
or equals or exceeds ten grams but is less than fifty grams, 2335
possession of heroin is a felony of the second degree, and the 2336
court shall impose as a mandatory prison term a second degree 2337
felony mandatory prison term. 2338

(e) If the amount of the drug involved equals or exceeds 2339
five hundred unit doses but is less than one thousand unit doses 2340
or equals or exceeds fifty grams but is less than one hundred 2341
grams, possession of heroin is a felony of the first degree, and 2342
the court shall impose as a mandatory prison term a first degree 2343
felony mandatory prison term. 2344

(f) If the amount of the drug involved equals or exceeds 2345
one thousand unit doses or equals or exceeds one hundred grams, 2346
possession of heroin is a felony of the first degree, the 2347
offender is a major drug offender, and the court shall impose as 2348
a mandatory prison term a maximum first degree felony mandatory 2349

prison term. 2350

(7) If the drug involved in the violation is hashish or a 2351
compound, mixture, preparation, or substance containing hashish, 2352
whoever violates division (A) of this section is guilty of 2353
possession of hashish. The penalty for the offense shall be 2354
determined as follows: 2355

~~(a) Except as otherwise provided in division (C) (7) (b),~~ 2356
~~(c), (d), (e), (f), or (g) of this section, possession of~~ 2357
~~hashish is a minor misdemeanor.~~ 2358

~~(b)~~ If the amount of the drug involved equals or exceeds 2359
~~five~~ eight grams but is less than ten grams of hashish in a 2360
solid form or equals or exceeds ~~one gram~~ two grams but is less 2361
than ~~two~~ four grams of hashish in a liquid concentrate, liquid 2362
extract, or liquid distillate form, possession of hashish is a 2363
misdemeanor of the fourth degree. 2364

~~(e)~~ (b) If the amount of the drug involved equals or 2365
exceeds ten grams but is less than fifty grams of hashish in a 2366
solid form or equals or exceeds ~~two~~ four grams but is less than 2367
ten grams of hashish in a liquid concentrate, liquid extract, or 2368
liquid distillate form, possession of hashish is a felony of the 2369
fifth degree, and division (B) of section 2929.13 of the Revised 2370
Code applies in determining whether to impose a prison term on 2371
the offender. 2372

~~(d)~~ (c) If the amount of the drug involved equals or 2373
exceeds fifty grams but is less than two hundred fifty grams of 2374
hashish in a solid form or equals or exceeds ten grams but is 2375
less than fifty grams of hashish in a liquid concentrate, liquid 2376
extract, or liquid distillate form, possession of hashish is a 2377
felony of the third degree, and division (C) of section 2929.13 2378

of the Revised Code applies in determining whether to impose a 2379
prison term on the offender. 2380

~~(e)~~ (d) If the amount of the drug involved equals or 2381
exceeds two hundred fifty grams but is less than one thousand 2382
grams of hashish in a solid form or equals or exceeds fifty 2383
grams but is less than two hundred grams of hashish in a liquid 2384
concentrate, liquid extract, or liquid distillate form, 2385
possession of hashish is a felony of the third degree, and there 2386
is a presumption that a prison term shall be imposed for the 2387
offense. 2388

~~(f)~~ (e) If the amount of the drug involved equals or 2389
exceeds one thousand grams but is less than two thousand grams 2390
of hashish in a solid form or equals or exceeds two hundred 2391
grams but is less than four hundred grams of hashish in a liquid 2392
concentrate, liquid extract, or liquid distillate form, 2393
possession of hashish is a felony of the second degree, and the 2394
court shall impose as a mandatory prison term a second degree 2395
felony mandatory prison term of five, six, seven, or eight 2396
years. 2397

~~(g)~~ (f) If the amount of the drug involved equals or 2398
exceeds two thousand grams of hashish in a solid form or equals 2399
or exceeds four hundred grams of hashish in a liquid 2400
concentrate, liquid extract, or liquid distillate form, 2401
possession of hashish is a felony of the second degree, and the 2402
court shall impose as a mandatory prison term a maximum second 2403
degree felony mandatory prison term. 2404

(8) If the drug involved is a controlled substance analog 2405
or compound, mixture, preparation, or substance that contains a 2406
controlled substance analog, whoever violates division (A) of 2407
this section is guilty of possession of a controlled substance 2408

analog. The penalty for the offense shall be determined as 2409
follows: 2410

(a) Except as otherwise provided in division (C) (8) (b), 2411
(c), (d), (e), or (f) of this section, possession of a 2412
controlled substance analog is a felony of the fifth degree, and 2413
division (B) of section 2929.13 of the Revised Code applies in 2414
determining whether to impose a prison term on the offender. 2415

(b) If the amount of the drug involved equals or exceeds 2416
ten grams but is less than twenty grams, possession of a 2417
controlled substance analog is a felony of the fourth degree, 2418
and there is a presumption for a prison term for the offense. 2419

(c) If the amount of the drug involved equals or exceeds 2420
twenty grams but is less than thirty grams, possession of a 2421
controlled substance analog is a felony of the third degree, and 2422
there is a presumption for a prison term for the offense. 2423

(d) If the amount of the drug involved equals or exceeds 2424
thirty grams but is less than forty grams, possession of a 2425
controlled substance analog is a felony of the second degree, 2426
and the court shall impose as a mandatory prison term a second 2427
degree felony mandatory prison term. 2428

(e) If the amount of the drug involved equals or exceeds 2429
forty grams but is less than fifty grams, possession of a 2430
controlled substance analog is a felony of the first degree, and 2431
the court shall impose as a mandatory prison term a first degree 2432
felony mandatory prison term. 2433

(f) If the amount of the drug involved equals or exceeds 2434
fifty grams, possession of a controlled substance analog is a 2435
felony of the first degree, the offender is a major drug 2436
offender, and the court shall impose as a mandatory prison term 2437

a maximum first degree felony mandatory prison term. 2438

(9) If the drug involved in the violation is a compound, 2439
mixture, preparation, or substance that is a combination of a 2440
fentanyl-related compound and marihuana, one of the following 2441
applies: 2442

(a) Except as otherwise provided in division (C) (9) (b) of 2443
this section, the offender is guilty of possession of marihuana 2444
and shall be punished as provided in division (C) (3) of this 2445
section. Except as otherwise provided in division (C) (9) (b) of 2446
this section, the offender is not guilty of possession of a 2447
fentanyl-related compound under division (C) (11) of this section 2448
and shall not be charged with, convicted of, or punished under 2449
division (C) (11) of this section for possession of a fentanyl- 2450
related compound. 2451

(b) If the offender knows or has reason to know that the 2452
compound, mixture, preparation, or substance that is the drug 2453
involved contains a fentanyl-related compound, the offender is 2454
guilty of possession of a fentanyl-related compound and shall be 2455
punished under division (C) (11) of this section. 2456

(10) If the drug involved in the violation is a compound, 2457
mixture, preparation, or substance that is a combination of a 2458
fentanyl-related compound and any schedule III, schedule IV, or 2459
schedule V controlled substance that is not a fentanyl-related 2460
compound, one of the following applies: 2461

(a) Except as otherwise provided in division (C) (10) (b) of 2462
this section, the offender is guilty of possession of drugs and 2463
shall be punished as provided in division (C) (2) of this 2464
section. Except as otherwise provided in division (C) (10) (b) of 2465
this section, the offender is not guilty of possession of a 2466

fentanyl-related compound under division (C) (11) of this section 2467
and shall not be charged with, convicted of, or punished under 2468
division (C) (11) of this section for possession of a fentanyl- 2469
related compound. 2470

(b) If the offender knows or has reason to know that the 2471
compound, mixture, preparation, or substance that is the drug 2472
involved contains a fentanyl-related compound, the offender is 2473
guilty of possession of a fentanyl-related compound and shall be 2474
punished under division (C) (11) of this section. 2475

(11) If the drug involved in the violation is a fentanyl- 2476
related compound and neither division (C) (9) (a) nor division (C) 2477
(10) (a) of this section applies to the drug involved, or is a 2478
compound, mixture, preparation, or substance that contains a 2479
fentanyl-related compound or is a combination of a fentanyl- 2480
related compound and any other controlled substance and neither 2481
division (C) (9) (a) nor division (C) (10) (a) of this section 2482
applies to the drug involved, whoever violates division (A) of 2483
this section is guilty of possession of a fentanyl-related 2484
compound. The penalty for the offense shall be determined as 2485
follows: 2486

(a) Except as otherwise provided in division (C) (11) (b), 2487
(c), (d), (e), (f), or (g) of this section, possession of a 2488
fentanyl-related compound is a felony of the fifth degree, and 2489
division (B) of section 2929.13 of the Revised Code applies in 2490
determining whether to impose a prison term on the offender. 2491

(b) If the amount of the drug involved equals or exceeds 2492
ten unit doses but is less than fifty unit doses or equals or 2493
exceeds one gram but is less than five grams, possession of a 2494
fentanyl-related compound is a felony of the fourth degree, and 2495
division (C) of section 2929.13 of the Revised Code applies in 2496

determining whether to impose a prison term on the offender. 2497

(c) If the amount of the drug involved equals or exceeds 2498
fifty unit doses but is less than one hundred unit doses or 2499
equals or exceeds five grams but is less than ten grams, 2500
possession of a fentanyl-related compound is a felony of the 2501
third degree, and there is a presumption for a prison term for 2502
the offense. 2503

(d) If the amount of the drug involved equals or exceeds 2504
one hundred unit doses but is less than two hundred unit doses 2505
or equals or exceeds ten grams but is less than twenty grams, 2506
possession of a fentanyl-related compound is a felony of the 2507
second degree, and the court shall impose as a mandatory prison 2508
term one of the prison terms prescribed for a felony of the 2509
second degree. 2510

(e) If the amount of the drug involved equals or exceeds 2511
two hundred unit doses but is less than five hundred unit doses 2512
or equals or exceeds twenty grams but is less than fifty grams, 2513
possession of a fentanyl-related compound is a felony of the 2514
first degree, and the court shall impose as a mandatory prison 2515
term one of the prison terms prescribed for a felony of the 2516
first degree. 2517

(f) If the amount of the drug involved equals or exceeds 2518
five hundred unit doses but is less than one thousand unit doses 2519
or equals or exceeds fifty grams but is less than one hundred 2520
grams, possession of a fentanyl-related compound is a felony of 2521
the first degree, and the court shall impose as a mandatory 2522
prison term the maximum prison term prescribed for a felony of 2523
the first degree. 2524

(g) If the amount of the drug involved equals or exceeds 2525

one thousand unit doses or equals or exceeds one hundred grams, 2526
possession of a fentanyl-related compound is a felony of the 2527
first degree, the offender is a major drug offender, and the 2528
court shall impose as a mandatory prison term the maximum prison 2529
term prescribed for a felony of the first degree. 2530

(D) Arrest or conviction for a minor misdemeanor violation 2531
of this section does not constitute a criminal record and need 2532
not be reported by the person so arrested or convicted in 2533
response to any inquiries about the person's criminal record, 2534
including any inquiries contained in any application for 2535
employment, license, or other right or privilege, or made in 2536
connection with the person's appearance as a witness. 2537

(E) In addition to any prison term or jail term authorized 2538
or required by division (C) of this section and sections 2539
2929.13, 2929.14, 2929.22, 2929.24, and 2929.25 of the Revised 2540
Code and in addition to any other sanction that is imposed for 2541
the offense under this section, sections 2929.11 to 2929.18, or 2542
sections 2929.21 to 2929.28 of the Revised Code, the court that 2543
sentences an offender who is convicted of or pleads guilty to a 2544
violation of division (A) of this section may suspend the 2545
offender's driver's or commercial driver's license or permit for 2546
not more than five years. However, if the offender pleaded 2547
guilty to or was convicted of a violation of section 4511.19 of 2548
the Revised Code or a substantially similar municipal ordinance 2549
or the law of another state or the United States arising out of 2550
the same set of circumstances as the violation, the court shall 2551
suspend the offender's driver's or commercial driver's license 2552
or permit for not more than five years. If applicable, the court 2553
also shall do the following: 2554

(1) (a) If the violation is a felony of the first, second, 2555

or third degree, the court shall impose upon the offender the 2556
mandatory fine specified for the offense under division (B) (1) 2557
of section 2929.18 of the Revised Code unless, as specified in 2558
that division, the court determines that the offender is 2559
indigent. 2560

(b) Notwithstanding any contrary provision of section 2561
3719.21 of the Revised Code, the clerk of the court shall pay a 2562
mandatory fine or other fine imposed for a violation of this 2563
section pursuant to division (A) of section 2929.18 of the 2564
Revised Code in accordance with and subject to the requirements 2565
of division (F) of section 2925.03 of the Revised Code. The 2566
agency that receives the fine shall use the fine as specified in 2567
division (F) of section 2925.03 of the Revised Code. 2568

(c) If a person is charged with a violation of this 2569
section that is a felony of the first, second, or third degree, 2570
posts bail, and forfeits the bail, the clerk shall pay the 2571
forfeited bail pursuant to division (E) (1) (b) of this section as 2572
if it were a mandatory fine imposed under division (E) (1) (a) of 2573
this section. 2574

(2) If the offender is a professionally licensed person, 2575
in addition to any other sanction imposed for a violation of 2576
this section, the court immediately shall comply with section 2577
2925.38 of the Revised Code. 2578

(F) It is an affirmative defense, as provided in section 2579
2901.05 of the Revised Code, to a charge of a fourth degree 2580
felony violation under this section that the controlled 2581
substance that gave rise to the charge is in an amount, is in a 2582
form, is prepared, compounded, or mixed with substances that are 2583
not controlled substances in a manner, or is possessed under any 2584
other circumstances, that indicate that the substance was 2585

possessed solely for personal use. Notwithstanding any contrary 2586
provision of this section, if, in accordance with section 2587
2901.05 of the Revised Code, an accused who is charged with a 2588
fourth degree felony violation of division (C) (2), (4), (5), or 2589
(6) of this section sustains the burden of going forward with 2590
evidence of and establishes by a preponderance of the evidence 2591
the affirmative defense described in this division, the accused 2592
may be prosecuted for and may plead guilty to or be convicted of 2593
a misdemeanor violation of division (C) (2) of this section or a 2594
fifth degree felony violation of division (C) (4), (5), or (6) of 2595
this section respectively. 2596

(G) When a person is charged with possessing a bulk amount 2597
or multiple of a bulk amount, division (E) of section 2925.03 of 2598
the Revised Code applies regarding the determination of the 2599
amount of the controlled substance involved at the time of the 2600
offense. 2601

(H) It is an affirmative defense to a charge of possession 2602
of a controlled substance analog under division (C) (8) of this 2603
section that the person charged with violating that offense 2604
obtained, possessed, or used one of the following items that are 2605
excluded from the meaning of "controlled substance analog" under 2606
section 3719.01 of the Revised Code: 2607

(1) A controlled substance; 2608

(2) Any substance for which there is an approved new drug 2609
application; 2610

(3) With respect to a particular person, any substance if 2611
an exemption is in effect for investigational use for that 2612
person pursuant to federal law to the extent that conduct with 2613
respect to that substance is pursuant to that exemption. 2614

(I) Any offender who received a mandatory suspension of 2615
the offender's driver's or commercial driver's license or permit 2616
under this section prior to September 13, 2016, may file a 2617
motion with the sentencing court requesting the termination of 2618
the suspension. However, an offender who pleaded guilty to or 2619
was convicted of a violation of section 4511.19 of the Revised 2620
Code or a substantially similar municipal ordinance or law of 2621
another state or the United States that arose out of the same 2622
set of circumstances as the violation for which the offender's 2623
license or permit was suspended under this section shall not 2624
file such a motion. 2625

Upon the filing of a motion under division (I) of this 2626
section, the sentencing court, in its discretion, may terminate 2627
the suspension. 2628

Sec. 2925.12. (A) No person shall knowingly make, obtain, 2629
possess, or use any instrument, article, or thing the customary 2630
and primary purpose of which is for the administration or use of 2631
a dangerous drug, other than marihuana, when the instrument 2632
involved is a hypodermic or syringe, whether or not of crude or 2633
extemporized manufacture or assembly, and the instrument, 2634
article, or thing involved has been used by the offender to 2635
unlawfully administer or use a dangerous drug, other than 2636
marihuana, or to prepare a dangerous drug, other than marihuana, 2637
for unlawful administration or use. 2638

(B) (1) This section does not apply to manufacturers, 2639
licensed health professionals authorized to prescribe drugs, 2640
pharmacists, owners of pharmacies, cultivators, processors, 2641
testing laboratories, registered patients, adult consumers, and 2642
other persons whose conduct was in accordance with Chapters 2643
3719., 3796., 4715., 4723., 4729., 4730., 4731., and 4741. of 2644

the Revised Code. 2645

(2) Division (B) (2) of section 2925.11 of the Revised Code 2646
applies with respect to a violation of this section when a 2647
person seeks or obtains medical assistance for another person 2648
who is experiencing a drug overdose, a person experiences a drug 2649
overdose and seeks medical assistance for that overdose, or a 2650
person is the subject of another person seeking or obtaining 2651
medical assistance for that overdose. 2652

(C) Whoever violates this section is guilty of possessing 2653
drug abuse instruments, a misdemeanor of the second degree. If 2654
the offender previously has been convicted of a drug abuse 2655
offense, a violation of this section is a misdemeanor of the 2656
first degree. 2657

(D) (1) In addition to any other sanction imposed upon an 2658
offender for a violation of this section, the court may suspend 2659
for not more than five years the offender's driver's or 2660
commercial driver's license or permit. However, if the offender 2661
pleaded guilty to or was convicted of a violation of section 2662
4511.19 of the Revised Code or a substantially similar municipal 2663
ordinance or the law of another state or the United States 2664
arising out of the same set of circumstances as the violation, 2665
the court shall suspend the offender's driver's or commercial 2666
driver's license or permit for not more than five years. If the 2667
offender is a professionally licensed person, in addition to any 2668
other sanction imposed for a violation of this section, the 2669
court immediately shall comply with section 2925.38 of the 2670
Revised Code. 2671

(2) Any offender who received a mandatory suspension of 2672
the offender's driver's or commercial driver's license or permit 2673
under this section prior to September 13, 2016, may file a 2674

motion with the sentencing court requesting the termination of 2675
the suspension. However, an offender who pleaded guilty to or 2676
was convicted of a violation of section 4511.19 of the Revised 2677
Code or a substantially similar municipal ordinance or law of 2678
another state or the United States that arose out of the same 2679
set of circumstances as the violation for which the offender's 2680
license or permit was suspended under this section shall not 2681
file such a motion. 2682

Upon the filing of a motion under division (D)(2) of this 2683
section, the sentencing court, in its discretion, may terminate 2684
the suspension. 2685

Sec. 2925.14. (A) As used in this section, "drug 2686
paraphernalia" means any equipment, product, or material of any 2687
kind that is used by the offender, intended by the offender for 2688
use, or designed for use, in propagating, cultivating, growing, 2689
harvesting, manufacturing, compounding, converting, producing, 2690
processing, preparing, testing, analyzing, packaging, 2691
repackaging, storing, containing, concealing, injecting, 2692
ingesting, inhaling, or otherwise introducing into the human 2693
body, a controlled substance in violation of this chapter. "Drug 2694
paraphernalia" does not mean equipment, products, and materials 2695
intended for use, or designed for use, in propagating, 2696
cultivating, growing, harvesting, manufacturing, compounding, 2697
converting, producing, processing, preparing, testing, 2698
analyzing, packaging, repackaging, storing, containing, or 2699
concealing marihuana or hashish. "Drug paraphernalia" includes, 2700
but is not limited to, any of the following equipment, products, 2701
or materials that are used by the offender, intended by the 2702
offender for use, or designed by the offender for use, in any of 2703
the following manners: 2704

- (1) A kit for propagating, cultivating, growing, or harvesting any species of a plant that is a controlled substance other than marihuana or hashish or from which a controlled substance other than marihuana or hashish can be derived; 2705
2706
2707
2708
- (2) A kit for manufacturing, compounding, converting, producing, processing, or preparing a controlled substance other than marihuana or hashish; 2709
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2711
- (3) Any object, instrument, or device for manufacturing, compounding, converting, producing, processing, or preparing methamphetamine; 2712
2713
2714
- (4) An isomerization device for increasing the potency of any species of a plant that is a controlled substance other than marihuana or hashish; 2715
2716
2717
- (5) Testing equipment for identifying, or analyzing the strength, effectiveness, or purity of, a controlled substance other than marihuana or hashish, except for those exempted in division (D) (4) of this section; 2718
2719
2720
2721
- (6) A scale or balance for weighing or measuring a controlled substance other than marihuana or hashish; 2722
2723
- (7) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose, or lactose, for cutting a controlled substance; 2724
2725
2726
- ~~(8) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marihuana;~~ 2727
2728
- ~~(9)~~ A blender, bowl, container, spoon, or mixing device for compounding a controlled substance other than marihuana or hashish; 2729
2730
2731
- ~~(10)~~ (9) A capsule, balloon, envelope, or container for 2732

packaging small quantities of a controlled substance <u>other than</u>	2733
<u>marihuana or hashish</u> ;	2734
(11) (10) A container or device for storing or concealing	2735
a controlled substance <u>other than marihuana or hashish</u> ;	2736
(12) (11) A hypodermic syringe, needle, or instrument for	2737
parenterally injecting a controlled substance into the human	2738
body;	2739
(13) (12) An object, instrument, or device for ingesting,	2740
inhaling, or otherwise introducing <u>cocaine</u> into the human body,	2741
marihuana, cocaine, hashish, or hashish oil, such as a metal,	2742
wooden, acrylic, glass, stone, plastic, or ceramic pipe, with or	2743
without a screen, permanent screen, hashish head, or punctured	2744
metal bowl; water pipe; carburetion tube or device; smoking or	2745
carburetion mask; roach clip or similar object used to hold	2746
burning material, such as a marihuana cigarette, that has become	2747
too small or too short to be held in the hand; miniature cocaine	2748
spoon, or cocaine vial; chamber pipe; carburetor pipe; electric	2749
pipe; air driver pipe; chillum; bong; or ice pipe or chiller.	2750
(B) In determining if any equipment, product, or material	2751
is drug paraphernalia, a court or law enforcement officer shall	2752
consider, in addition to other relevant factors, the following:	2753
(1) Any statement by the owner, or by anyone in control,	2754
of the equipment, product, or material, concerning its use;	2755
(2) The proximity in time or space of the equipment,	2756
product, or material, or of the act relating to the equipment,	2757
product, or material, to a violation of any provision of this	2758
chapter;	2759
(3) The proximity of the equipment, product, or material	2760
to any controlled substance <u>other than marihuana or hashish</u> ;	2761

- (4) The existence of any residue of a controlled substance 2762
other than marihuana or hashish on the equipment, product, or 2763
material; 2764
- (5) Direct or circumstantial evidence of the intent of the 2765
owner, or of anyone in control, of the equipment, product, or 2766
material, to deliver it to any person whom the owner or person 2767
in control of the equipment, product, or material knows intends 2768
to use the object to facilitate a violation of any provision of 2769
this chapter. A finding that the owner, or anyone in control, of 2770
the equipment, product, or material, is not guilty of a 2771
violation of any other provision of this chapter does not 2772
prevent a finding that the equipment, product, or material was 2773
intended or designed by the offender for use as drug 2774
paraphernalia. 2775
- (6) Any oral or written instruction provided with the 2776
equipment, product, or material concerning its use; 2777
- (7) Any descriptive material accompanying the equipment, 2778
product, or material and explaining or depicting its use; 2779
- (8) National or local advertising concerning the use of 2780
the equipment, product, or material; 2781
- (9) The manner and circumstances in which the equipment, 2782
product, or material is displayed for sale; 2783
- (10) Direct or circumstantial evidence of the ratio of the 2784
sales of the equipment, product, or material to the total sales 2785
of the business enterprise; 2786
- (11) The existence and scope of legitimate uses of the 2787
equipment, product, or material in the community; 2788
- (12) Expert testimony concerning the use of the equipment, 2789

product, or material. 2790

(C) (1) Subject to divisions (D) (2), (3), and (4) of this 2791
section, no person shall knowingly use, or possess with purpose 2792
to use, drug paraphernalia. 2793

(2) No person shall knowingly sell, or possess or 2794
manufacture with purpose to sell, drug paraphernalia, if the 2795
person knows or reasonably should know that the equipment, 2796
product, or material will be used as drug paraphernalia. 2797

(3) No person shall place an advertisement in any 2798
newspaper, magazine, handbill, or other publication that is 2799
published and printed and circulates primarily within this 2800
state, if the person knows that the purpose of the advertisement 2801
is to promote the illegal sale in this state of the equipment, 2802
product, or material that the offender intended or designed for 2803
use as drug paraphernalia. 2804

(D) (1) This section does not apply to manufacturers, 2805
licensed health professionals authorized to prescribe drugs, 2806
pharmacists, owners of pharmacies, cultivators, processors, 2807
testing laboratories, registered patients, adult consumers, and 2808
other persons whose conduct is in accordance with Chapters 2809
3719., 3796., 4715., 4723., 4729., 4730., 4731., and 4741. of 2810
the Revised Code. This section shall not be construed to 2811
prohibit the possession or use of a hypodermic as authorized by 2812
section 3719.172 of the Revised Code. 2813

(2) Division ~~(C) (1)~~ (C) of this section does not apply to 2814
a person's use, or possession with purpose to use, any drug 2815
paraphernalia that is equipment, a product, or material of any 2816
kind that is used by the person, intended by the person for use, 2817
or designed for use in storing, containing, concealing, 2818

injecting, ingesting, inhaling, or otherwise introducing into 2819
the human body marihuana or hashish. 2820

(3) Division (B) (2) of section 2925.11 of the Revised Code 2821
applies with respect to a violation of division (C) (1) of this 2822
section when a person seeks or obtains medical assistance for 2823
another person who is experiencing a drug overdose, a person 2824
experiences a drug overdose and seeks medical assistance for 2825
that overdose, or a person is the subject of another person 2826
seeking or obtaining medical assistance for that overdose. 2827

(4) Division (C) (1) of this section does not apply to a 2828
person's use, or possession with purpose to use, any drug 2829
testing strips to determine the presence of fentanyl or a 2830
fentanyl-related compound. 2831

(E) Notwithstanding Chapter 2981. of the Revised Code, any 2832
drug paraphernalia that was used, possessed, sold, or 2833
manufactured in a violation of this section shall be seized, 2834
after a conviction for that violation shall be forfeited, and 2835
upon forfeiture shall be disposed of pursuant to division (B) of 2836
section 2981.12 of the Revised Code. 2837

(F) (1) Whoever violates division (C) (1) of this section is 2838
guilty of illegal use or possession of drug paraphernalia, a 2839
misdemeanor of the fourth degree. 2840

(2) Except as provided in division (F) (3) of this section, 2841
whoever violates division (C) (2) of this section is guilty of 2842
dealing in drug paraphernalia, a misdemeanor of the second 2843
degree. 2844

(3) Whoever violates division (C) (2) of this section by 2845
selling drug paraphernalia to a juvenile is guilty of selling 2846
drug paraphernalia to juveniles, a misdemeanor of the first 2847

degree. 2848

(4) Whoever violates division (C) (3) of this section is 2849
guilty of illegal advertising of drug paraphernalia, a 2850
misdemeanor of the second degree. 2851

(G) (1) In addition to any other sanction imposed upon an 2852
offender for a violation of this section, the court may suspend 2853
for not more than five years the offender's driver's or 2854
commercial driver's license or permit. However, if the offender 2855
pleaded guilty to or was convicted of a violation of section 2856
4511.19 of the Revised Code or a substantially similar municipal 2857
ordinance or the law of another state or the United States 2858
arising out of the same set of circumstances as the violation, 2859
the court shall suspend the offender's driver's or commercial 2860
driver's license or permit for not more than five years. If the 2861
offender is a professionally licensed person, in addition to any 2862
other sanction imposed for a violation of this section, the 2863
court immediately shall comply with section 2925.38 of the 2864
Revised Code. 2865

(2) Any offender who received a mandatory suspension of 2866
the offender's driver's or commercial driver's license or permit 2867
under this section prior to September 13, 2016, may file a 2868
motion with the sentencing court requesting the termination of 2869
the suspension. However, an offender who pleaded guilty to or 2870
was convicted of a violation of section 4511.19 of the Revised 2871
Code or a substantially similar municipal ordinance or law of 2872
another state or the United States that arose out of the same 2873
set of circumstances as the violation for which the offender's 2874
license or permit was suspended under this section shall not 2875
file such a motion. 2876

Upon the filing of a motion under division (G) (2) of this 2877

section, the sentencing court, in its discretion, may terminate 2878
the suspension. 2879

Sec. 2925.36. (A) No person shall knowingly furnish 2880
another a sample drug. 2881

(B) Division (A) of this section does not apply to 2882
manufacturers, wholesalers, pharmacists, owners of pharmacies, 2883
licensed health professionals authorized to prescribe drugs, 2884
cultivators, processors, testing laboratories, registered 2885
patients, adult consumers, and other persons whose conduct is in 2886
accordance with Chapters 3719., 3796., 4715., 4723., 4725., 2887
4729., 4730., 4731., and 4741. of the Revised Code. 2888

(C) (1) Whoever violates this section is guilty of illegal 2889
dispensing of drug samples. 2890

(2) If the drug involved in the offense is a compound, 2891
mixture, preparation, or substance included in schedule I or II, 2892
with the exception of marihuana, the penalty for the offense 2893
shall be determined as follows: 2894

(a) Except as otherwise provided in division (C) (2) (b) of 2895
this section, illegal dispensing of drug samples is a felony of 2896
the fifth degree, and, subject to division (E) of this section, 2897
division (C) of section 2929.13 of the Revised Code applies in 2898
determining whether to impose a prison term on the offender. 2899

(b) If the offense was committed in the vicinity of a 2900
school or in the vicinity of a juvenile, illegal dispensing of 2901
drug samples is a felony of the fourth degree, and, subject to 2902
division (E) of this section, division (C) of section 2929.13 of 2903
the Revised Code applies in determining whether to impose a 2904
prison term on the offender. 2905

(3) If the drug involved in the offense is a dangerous 2906

drug or a compound, mixture, preparation, or substance included 2907
in schedule III, IV, or V, or is marihuana, the penalty for the 2908
offense shall be determined as follows: 2909

(a) Except as otherwise provided in division (C) (3) (b) of 2910
this section, illegal dispensing of drug samples is a 2911
misdemeanor of the second degree. 2912

(b) If the offense was committed in the vicinity of a 2913
school or in the vicinity of a juvenile, illegal dispensing of 2914
drug samples is a misdemeanor of the first degree. 2915

(D) (1) In addition to any prison term authorized or 2916
required by division (C) or (E) of this section and sections 2917
2929.13 and 2929.14 of the Revised Code and in addition to any 2918
other sanction imposed for the offense under this section or 2919
sections 2929.11 to 2929.18 of the Revised Code, the court that 2920
sentences an offender who is convicted of or pleads guilty to a 2921
violation of division (A) of this section may suspend for not 2922
more than five years the offender's driver's or commercial 2923
driver's license or permit. However, if the offender pleaded 2924
guilty to or was convicted of a violation of section 4511.19 of 2925
the Revised Code or a substantially similar municipal ordinance 2926
or the law of another state or the United States arising out of 2927
the same set of circumstances as the violation, the court shall 2928
suspend the offender's driver's or commercial driver's license 2929
or permit for not more than five years. 2930

If the offender is a professionally licensed person, in 2931
addition to any other sanction imposed for a violation of this 2932
section, the court immediately shall comply with section 2925.38 2933
of the Revised Code. 2934

(2) Any offender who received a mandatory suspension of 2935

the offender's driver's or commercial driver's license or permit 2936
under this section prior to September 13, 2016, may file a 2937
motion with the sentencing court requesting the termination of 2938
the suspension. However, an offender who pleaded guilty to or 2939
was convicted of a violation of section 4511.19 of the Revised 2940
Code or a substantially similar municipal ordinance or law of 2941
another state or the United States that arose out of the same 2942
set of circumstances as the violation for which the offender's 2943
license or permit was suspended under this section shall not 2944
file such a motion. 2945

Upon the filing of a motion under division (D) (2) of this 2946
section, the sentencing court, in its discretion, may terminate 2947
the suspension. 2948

(E) Notwithstanding the prison term authorized or required 2949
by division (C) of this section and sections 2929.13 and 2929.14 2950
of the Revised Code, if the violation of division (A) of this 2951
section involves the sale, offer to sell, or possession of a 2952
schedule I or II controlled substance, with the exception of 2953
marihuana, and if the court imposing sentence upon the offender 2954
finds that the offender as a result of the violation is a major 2955
drug offender and is guilty of a specification of the type 2956
described in division (A) of section 2941.1410 of the Revised 2957
Code, the court, in lieu of the prison term otherwise authorized 2958
or required, shall impose upon the offender the mandatory prison 2959
term specified in division (B) (3) (a) of section 2929.14 of the 2960
Revised Code. 2961

(F) Notwithstanding any contrary provision of section 2962
3719.21 of the Revised Code, the clerk of the court shall pay a 2963
fine imposed for a violation of this section pursuant to 2964
division (A) of section 2929.18 of the Revised Code in 2965

accordance with and subject to the requirements of division (F) 2966
of section 2925.03 of the Revised Code. The agency that receives 2967
the fine shall use the fine as specified in division (F) of 2968
section 2925.03 of the Revised Code. 2969

Sec. 2925.38. If a person who is convicted of or pleads 2970
guilty to a violation of section 2925.02, 2925.03, 2925.04, 2971
2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.14, 2972
~~2925.141,~~ 2925.22, 2925.23, 2925.31, 2925.32, 2925.36, or 2973
2925.37 of the Revised Code is a professionally licensed person, 2974
in addition to any other sanctions imposed for the violation, 2975
the court, except as otherwise provided in this section, 2976
immediately shall transmit a certified copy of the judgment 2977
entry of conviction to the regulatory or licensing board or 2978
agency that has the administrative authority to suspend or 2979
revoke the offender's professional license. If the 2980
professionally licensed person who is convicted of or pleads 2981
guilty to a violation of any section listed in this section is a 2982
person who has been admitted to the bar by order of the supreme 2983
court in compliance with its prescribed and published rules, in 2984
addition to any other sanctions imposed for the violation, the 2985
court immediately shall transmit a certified copy of the 2986
judgment entry of conviction to the secretary of the board of 2987
commissioners on grievances and discipline of the supreme court 2988
and to either the disciplinary counsel or the president, 2989
secretary, and chairperson of each certified grievance 2990
committee. 2991

Sec. 2953.40. (A) As used in this section: 2992

(1) "Expunge" means to destroy, delete, or erase a record 2993
as appropriate for the record's physical or electronic form or 2994
characteristic so that the record is permanently irretrievable. 2995

- (2) "Official records" has the same meaning as in section 2953.51 of the Revised Code. 2996
2997
- (3) "Prosecutor" has the same meaning as in section 2953.31 of the Revised Code. 2998
2999
- (4) "Record of conviction" means any record related to a conviction of or plea of guilty to an offense. 3000
3001
- (5) "Qualified marihuana offense" means any of the following: 3002
3003
- (a) A violation of section 2925.11 of the Revised Code, as that section existed prior to the effective date of this amendment, that involved the obtaining, possession, or use of five ounces of marihuana or less, or that involved the obtaining, possession, or use of fifteen grams of hashish or less; 3004
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3006
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- (b) A violation of section 2925.04 of the Revised Code, as that section existed prior to the effective date of this amendment, that involved the cultivation of twelve or fewer marihuana plants; 3010
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3013
- (c) A violation of section 2925.141 of the Revised Code, as that section existed prior to the effective date of this section. 3014
3015
3016
- (B) Any person who is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a qualified marihuana offense may file an application under this section for the expungement of the record of conviction. The person may file the application at any time on or after the effective date of this act. The application shall do all of the following: 3017
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3019
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3022
- (1) Identify the applicant, the offense for which the 3023

expungement is sought, the date of the conviction or plea of 3024
guilty to that offense, and the court in which the conviction 3025
occurred or the plea of guilty was entered. 3026

(2) Include evidence that the offense was a qualified 3027
marihuana offense. 3028

(3) Include a request for expungement of the record of 3029
conviction of that offense under this section. 3030

(C) Upon the filing of an application under division (B) 3031
of this section and the payment of the fee described in division 3032
(G) of this section, if applicable, the court shall set a date 3033
for a hearing and shall notify the prosecutor for the case of 3034
the hearing on the application. The prosecutor may object to the 3035
granting of the application by filing an objection with the 3036
court prior to the date set for the hearing. The prosecutor 3037
shall specify in the objection the reasons for believing a 3038
denial of the application is justified. The court shall hold the 3039
hearing scheduled under this division. 3040

(D) At the hearing held under division (C) of this 3041
section, the court shall do each of the following: 3042

(1) If the prosecutor has filed an objection in accordance 3043
with division (C) of this section, consider the reasons against 3044
granting the application specified by the prosecutor in the 3045
objection; 3046

(2) Determine whether the applicant has been convicted of 3047
or pleaded guilty to a qualified marihuana offense. 3048

(E) If the court determines at the hearing held under 3049
division (D) of this section that an offense that is the subject 3050
of an application under this section is a qualified marihuana 3051
offense, the court shall order the expungement of all official 3052

records pertaining to the case and the deletion of all index 3053
references to the case and, if it does order the expungement, 3054
shall send notice of the order to each public office or agency 3055
that the court has reason to believe may have an official record 3056
pertaining to the case. 3057

(F) The proceedings in the case that is the subject of an 3058
order issued under division (E) of this section shall be 3059
considered not to have occurred and the conviction or guilty 3060
plea of the person who is the subject of the proceedings shall 3061
be expunged. The record of the conviction shall not be used for 3062
any purpose, including, but not limited to, a criminal records 3063
check under section 109.572 of the Revised Code or a 3064
determination under section 2923.125 or 2923.1213 of the Revised 3065
Code of eligibility for a concealed handgun license. The 3066
applicant may, and the court shall, reply that no record exists 3067
with respect to the applicant upon any inquiry into the matter. 3068

(G) Upon the filing of an application under this section, 3069
the applicant, unless indigent, shall pay a fee of fifty 3070
dollars. The court shall pay thirty dollars of the fee into the 3071
state treasury, with fifteen dollars of that amount credited to 3072
the attorney general reimbursement fund created by section 3073
109.11 of the Revised Code. The court shall pay twenty dollars 3074
of the fee into the county general revenue fund if the sealed 3075
conviction or bail forfeiture was pursuant to a state statute, 3076
or into the general revenue fund of the municipal corporation 3077
involved if the sealed conviction or bail forfeiture was 3078
pursuant to a municipal ordinance. 3079

Sec. 3796.01. (A) As used in this chapter: 3080

(1) "Academic medical center" has the same meaning as in 3081
section 4731.297 of the Revised Code. 3082

- (2) "Adult consumer" means a natural person twenty-one 3083
years of age or older. 3084
- (3) "Advertising" means any written or verbal statement, 3085
illustration, or depiction created to induce sales through the 3086
use of or a combination of letters, pictures, objects, lighting 3087
effects, illustrations, or other similar means. "Advertisement" 3088
includes brochures and promotional and other marketing 3089
materials. 3090
- (4) "Level I cultivator" means the holder of a level I 3091
cultivator license issued by the department of commerce. 3092
- (5) "Level II cultivator" means the holder of a level II 3093
cultivator license issued by the department of commerce. 3094
- (6) "Marijuana" means marihuana as defined in section 3095
3719.01 of the Revised Code. 3096
- ~~(2)~~ (7) "Marijuana concentrate" means the resin extracted 3097
from any part of the plant of the genus cannabis and every 3098
compound, manufacture, salt, derivative, mixture, or preparation 3099
of that resin but does not include the weight of any other 3100
ingredient combined with marijuana concentrate. 3101
- (8) "Marijuana cultivation area" means the boundaries of 3102
the enclosed areas in which marijuana is cultivated during the 3103
vegetative stage and flowering stage of the cultivation process. 3104
For purposes of calculating the marijuana cultivation area 3105
square footage, enclosed areas used solely for the storage and 3106
maintenance of mother plants, clones, or seedlings shall not be 3107
included. 3108
- (9) "Medical marijuana" means marijuana that is 3109
cultivated, processed, dispensed, tested, possessed, or used for 3110
a medical purpose and sold to a registered patient by a retail 3111

<u>dispensary licensed by the department of commerce.</u>	3112
(3) "Academic medical center" has the same meaning as in	3113
section 4731.297 of the Revised Code.	3114
(4) "Drug database" means the database established and	3115
maintained by the state board of pharmacy pursuant to section	3116
4729.75 of the Revised Code.	3117
(5) (10) "Openly and publicly" means a venue, area, or	3118
space that is open to the public without restriction, including	3119
age restrictions.	3120
<u>(11) "Paraphernalia" means any equipment, products, or</u>	3121
<u>materials of any kind that are used, intended for use, or</u>	3122
<u>designed for use in planting, propagating, cultivating, growing,</u>	3123
<u>harvesting, composting, manufacturing, compounding, converting,</u>	3124
<u>producing, processing, preparing, testing, analyzing, packaging,</u>	3125
<u>repackaging, storing, vaporizing, or containing marijuana, or</u>	3126
<u>for ingesting, inhaling, or otherwise introducing marijuana into</u>	3127
<u>the human body. "Drug paraphernalia" does not mean equipment,</u>	3128
<u>products, and materials intended for use, or designed for use,</u>	3129
<u>in propagating, cultivating, growing, harvesting, manufacturing,</u>	3130
<u>compounding, converting, producing, processing, preparing,</u>	3131
<u>testing, analyzing, packaging, repackaging, storing, containing,</u>	3132
<u>or concealing marijuana or hashish.</u>	3133
<u>(12) "Physician" means an individual authorized under</u>	3134
<u>Chapter 4731. of the Revised Code to practice medicine and</u>	3135
<u>surgery or osteopathic medicine and surgery.</u>	3136
(6) (13) "Qualifying medical condition" means any of the	3137
following:	3138
(a) Acquired immune deficiency syndrome;	3139

(b) Alzheimer's disease;	3140
(c) Amyotrophic lateral sclerosis;	3141
(d) <u>Arthritis</u> ;	3142
<u>(e) Autism spectrum disorder</u> ;	3143
<u>(f) Cancer</u> ;	3144
(e) <u>(g) Chronic traumatic encephalopathy</u> ;	3145
(f) <u>(h) Crohn's disease</u> ;	3146
(g) <u>(i) Epilepsy or another seizure disorder</u> ;	3147
(h) <u>(j) Fibromyalgia</u> ;	3148
(i) <u>(k) Glaucoma</u> ;	3149
(j) <u>(l) Hepatitis C</u> ;	3150
(k) <u>(m) Inflammatory bowel disease</u> ;	3151
(l) <u>(n) Migraines</u> ;	3152
<u>(o) Multiple sclerosis</u> ;	3153
(m) <u>(p) Opioid use disorder</u> ;	3154
<u>(q) Pain that is either of the following</u> :	3155
(i) Chronic and severe;	3156
(ii) Intractable.	3157
(n) <u>(r) Parkinson's disease</u> ;	3158
(o) <u>(s) Positive status for HIV</u> ;	3159
(p) <u>(t) Post-traumatic stress disorder</u> ;	3160
(q) <u>(u) Sickle cell anemia</u> ;	3161

(r) <u>(v) Spasticity or chronic muscle spasms;</u>	3162
<u>(w) Spinal cord disease or injury;</u>	3163
(s) <u>(x) Tourette's syndrome;</u>	3164
(t) <u>(y) Traumatic brain injury;</u>	3165
(u) <u>(z) Ulcerative colitis;</u>	3166
(v) <u>(aa) Any disease or condition for which hospice care</u> <u>is recommended by a treating physician;</u>	3167 3168
<u>(bb) Any terminal illness;</u>	3169
<u>(cc) Any other disease or condition added by the state</u> <u>medical board department of commerce under section 4731.302-</u> <u>3796.03 of the Revised Code.</u>	3170 3171 3172
(7) <u>(14) "State university" has the same meaning as in</u> section 3345.011 of the Revised Code.	3173 3174
<u>(15) "Tetrahydrocannabinol content" means the sum of the</u> <u>amount of delta-9-tetrahydrocannabinol and eighty-seven and</u> <u>seven-tenths per cent of the amount of delta-9-</u> <u>tetrahydrocannabinolic acid present in the product or plant</u> <u>material.</u>	3175 3176 3177 3178 3179
(B) Notwithstanding any conflicting provision of Chapter 3719. of the Revised Code or the rules adopted under it, for purposes of this chapter, medical marijuana is a schedule II controlled substance.	3180 3181 3182 3183
Sec. 3796.02. There is hereby established a medical <u>division of marijuana control program</u> in the department of commerce and the state board of pharmacy . <u>The Two hundred forty</u> <u>days after the effective date of this amendment, the</u> department shall provide for the licensure of medical marijuana cultivators	3184 3185 3186 3187 3188

~~and, processors and the licensure of, retail dispensaries, and~~ 3189
~~laboratories that test medical marijuana. The board department~~ 3190
~~shall provide for the licensure of retail dispensaries and the~~ 3191
~~registration of patients and their caregivers. The department~~ 3192
~~and board shall administer the program, through the division of~~ 3193
~~marijuana control, shall regulate the operations of marijuana~~ 3194
~~cultivators, processors, retail dispensaries, testing~~ 3195
~~laboratories, and the employees of each.~~ 3196

Sec. 3796.03. ~~(A) (1) Except as provided in division (A) (2)~~ 3197
~~of this section, not later than one year after September 8,~~ 3198
~~2016 (A) On the effective date of this amendment, the department~~ 3199
~~of commerce shall adopt rules, in accordance with Chapter 119.~~ 3200
~~of the Revised Code, establishing standards and procedures for~~ 3201
~~the medical marijuana control program division of marijuana~~ 3202
~~control's regulation of medical marijuana and adult use~~ 3203
~~marijuana.~~ 3204

~~(2) (B) The department rules adopted pursuant to division~~ 3205
~~(A) of this section shall adopt rules establishing do all of the~~ 3206
~~following:~~ 3207

~~(1) Establish standards and procedures for the sale of~~ 3208
~~marijuana to adult consumers and medical marijuana to registered~~ 3209
~~patients by retail dispensaries;~~ 3210

~~(2) Establish standards and procedures for the licensure~~ 3211
~~of cultivators not later than two hundred forty days after~~ 3212
~~September 8, 2016, processors, testing laboratories, and retail~~ 3213
~~dispensaries;~~ 3214

~~(3) All rules adopted under this section shall be adopted~~ 3215
~~in accordance with Chapter 119. of the Revised Code.~~ 3216

~~(B) The rules shall do all of the following:~~ 3217

(1) —Establish application procedures and fees for licenses it issues under this chapter;	3218 3219
(2) — <u>(4)</u> Specify both of the following:	3220
(a) The conditions that must be met to be eligible for licensure;	3221 3222
(b) In accordance with section 9.79 of the Revised Code, the criminal offenses for which an applicant will be disqualified from licensure pursuant to that section.	3223 3224 3225
(3) — <u>(5)</u> Establish, in accordance with section 3796.05 of the Revised Code, the number of cultivator licenses that will be permitted at any one time;	3226 3227 3228
(4) — <u>(6)</u> Establish a license renewal schedule, renewal procedures, and renewal fees;	3229 3230
(5) — <u>(7)</u> Specify reasons for which a license may be suspended, including without prior hearing, revoked, or not be renewed or issued and the reasons for which a civil penalty may be imposed on a license holder, <u>which reasons shall include the failure to begin operating within two years of receiving a license from the department unless the department determines, in its discretion, that the license holder has demonstrated it has taken significant steps to become operational within two years and has identified a date by which it will begin operating;</u>	3231 3232 3233 3234 3235 3236 3237 3238 3239
(6) — <u>(8)</u> Establish standards under which a license suspension may be lifted;	3240 3241
(7) — <u>(9)</u> Specify if a cultivator, processor, or testing laboratory, <u>or retail dispensary</u> that is licensed under this chapter and that existed at a location before a school, church, public library, public playground, or public park became	3242 3243 3244 3245

established within five hundred feet of the cultivator, 3246
processor, ~~or~~ laboratory, or retail dispensary may remain in 3247
operation or shall relocate or have its license revoked by the 3248
~~board~~ department; 3249

~~(8)~~ (10) Establish procedures for registration of patients 3250
and caregivers and requirements that must be met to be eligible 3251
for registration; 3252

(11) Establish training requirements for employees of 3253
cultivators, processors, testing laboratories, and retail 3254
dispensaries; 3255

(12) Specify the paraphernalia or other accessories that 3256
may be used in the administration to a registered patient of 3257
medical marijuana; 3258

(13) Establish procedures for the issuance of patient or 3259
caregiver identification cards; 3260

(14) Specify the forms of or methods of using marijuana 3261
that are attractive to children; 3262

(15) Specify both of the following: 3263

(a) Subject to division ~~(B) (8) (b)~~ (B) (15) (b) of this 3264
section, the criminal offenses for which a person will be 3265
disqualified from employment with a license holder; 3266

(b) Which of the criminal offenses specified pursuant to 3267
division ~~(B) (8) (a)~~ (B) (15) (a) of this section will not 3268
disqualify a person from employment with a license holder if the 3269
person was convicted of ~~or pleaded guilty~~ to the offense more 3270
than five years before the date the employment begins. 3271

~~(9)~~ (16) Establish, in accordance with section 3796.05 of 3272
the Revised Code, standards and procedures for the testing of 3273

~~medical-marijuana~~ by a laboratory licensed under this chapter. 3274

(C) The department shall adopt rules for the addition of 3275
diseases or conditions to the list of qualifying medical 3276
conditions for the purposes of section 3796.01 of the Revised 3277
Code. 3278

(D) In addition to the rules described in ~~division~~ 3279
~~divisions~~ (B) and (C) of this section, the department may adopt 3280
any other rules it considers necessary for the ~~program's~~ 3281
division's administration and the implementation and enforcement 3282
of this chapter. 3283

~~(D)~~ (E) When adopting rules under this section, the 3284
department shall consider standards and procedures that have 3285
been found to be best practices relative to the use and 3286
regulation of ~~medical-marijuana~~. 3287

(F) (1) Prior to January 1, 2027, the department shall not 3288
issue more than one retail dispensary license per sixty thousand 3289
residents of this state; 3290

(2) After January 1, 2027, the department shall review the 3291
number of licensed retail dispensaries on at least a biennial 3292
basis. After review, the department may license additional 3293
retail dispensary licenses after considering all of the 3294
following: 3295

(a) The anticipated market growth and consumer demand, 3296
including the population of this state and the number of 3297
registered patients seeking to use medical marijuana; 3298

(b) The supply of marijuana and marijuana-derived products 3299
produced by licensed cultivators and processors; 3300

(c) The geographic distribution of retail dispensary sites 3301

in an effort to ensure patient access to medical marijuana. 3302

(G) To the extent possible, the department shall do both 3303
of the following: 3304

(1) Issue a sufficient number of cultivator and processor 3305
licenses to ensure an adequate supply of marijuana and medical 3306
marijuana; 3307

(2) Issue a sufficient number of testing laboratory 3308
licenses to ensure cultivators and processors are able to 3309
receive reliable and timely testing results. 3310

(H) (1) The department shall not issue additional 3311
cultivator, processor, testing laboratories, or retail 3312
dispensary licenses under this section without first conducting 3313
a study to determine whether there has been prior discrimination 3314
in the issuance of marijuana-related licenses in this state, 3315
including whether the effects of marijuana prohibition have 3316
contributed to a lack of participation by racial or ethnic 3317
minorities in the medical marijuana industry in this state. 3318

(2) If the study conducted pursuant to division (H) (1) of 3319
this section establishes that there has been prior 3320
discrimination in the issuance of marijuana-related licenses in 3321
this state, the department shall take necessary and appropriate 3322
actions to address and remedy any identified discrimination when 3323
issuing licenses pursuant to this section. 3324

(I) Subject to Chapter 1331. of the Revised Code, the 3325
rules adopted under this section shall not prohibit any person 3326
from either of the following: 3327

(1) Influencing or controlling the activities of more than 3328
one cultivator, processor, or retail dispensary license issued 3329
pursuant to this chapter; 3330

(2) Holding an ownership, investment, or other financial 3331
interest in more than one cultivator, processor, or retail 3332
dispensary license issued pursuant to this chapter. 3333

(J) Rules adopted pursuant to this chapter shall not be 3334
subject to division (F) of section 121.95 of the Revised Code. 3335

Sec. 3796.032. This chapter does not authorize the 3336
department of commerce ~~or the state board of pharmacy~~ to oversee 3337
or limit research conducted at a state university, academic 3338
medical center, or private research and development organization 3339
that is related to marijuana and is approved by an agency, 3340
board, center, department, or institute of the United States 3341
government, including any of the following: 3342

(A) The agency for health care research and quality; 3343

(B) The national institutes of health; 3344

(C) The national academy of sciences; 3345

(D) The centers for medicare and medicaid services; 3346

(E) The United States department of defense; 3347

(F) The centers for disease control and prevention; 3348

(G) The United States department of veterans affairs; 3349

(H) The drug enforcement administration; 3350

(I) The food and drug administration; 3351

(J) Any board recognized by the national institutes of 3352
health for the purpose of evaluating the medical value of health 3353
care services. 3354

Sec. 3796.05. (A) When establishing the number of 3355
cultivator licenses that will be permitted at any one time, the 3356

department of commerce shall consider ~~both~~all of the following: 3357

(1) The population of this state; 3358

(2) The number of patients seeking to use medical 3359
marijuana; 3360

(3) The number of potential adult use consumers; 3361

(4) The production capacity of existing licensed 3362
cultivators. 3363

(B) When establishing the number of retail dispensary 3364
licenses that will be permitted at any one time, the ~~state board~~ 3365
~~of pharmacy~~ department of commerce shall consider all of the 3366
following, in addition to the requirements of section 3796.03 of 3367
the Revised Code: 3368

(1) The population of this state; 3369

(2) The number of patients seeking to use medical 3370
marijuana; 3371

(3) The number of potential adult use consumers; 3372

(4) The geographic distribution of dispensary sites in an 3373
effort to ensure patient access to medical marijuana. 3374

(C) When establishing standards and procedures for the 3375
testing of ~~medical~~ marijuana, the department shall do all of the 3376
following: 3377

(1) Specify when testing must be conducted; 3378

(2) Determine the minimum amount of ~~medical~~ marijuana that 3379
must be tested; 3380

(3) Specify the manner in which testing is to be conducted 3381
in an effort to ensure uniformity of ~~medical~~ marijuana products 3382

processed for and dispensed to patients <u>and adult users;</u>	3383
(4) Specify the manner in which test results are provided.	3384
<u>(D) Beginning on the effective date of this amendment, the</u>	3385
<u>department shall review and approve expansion plans, as required</u>	3386
<u>by the rules adopted by the department under section 3796.03 of</u>	3387
<u>the Revised Code, to permit level I and level II cultivators to</u>	3388
<u>expand their respective marijuana cultivation areas as follows:</u>	3389
<u>(1) Level I cultivators shall be permitted to expand to a</u>	3390
<u>marijuana cultivation area of up to one hundred thousand square</u>	3391
<u>feet;</u>	3392
<u>(2) Level II cultivators shall be permitted to expand to a</u>	3393
<u>marijuana cultivation area of up to fifteen thousand square</u>	3394
<u>feet.</u>	3395
Sec. 3796.06. (A) Only the following forms of medical	3396
marijuana may be <u>manufactured by licensed processors and</u>	3397
dispensed under this chapter:	3398
(1) Oils;	3399
(2) Tinctures;	3400
(3) Plant material;	3401
(4) Edibles;	3402
(5) Patches;	3403
(6) <u>Pills;</u>	3404
<u>(7) Capsules;</u>	3405
<u>(8) Suppositories;</u>	3406
<u>(9) Oral pouches;</u>	3407

<u>(10) Oral strips;</u>	3408
<u>(11) Oral and topical sprays;</u>	3409
<u>(12) Salves, lotions, or similar topical cosmetic products;</u>	3410 3411
<u>(13) Inhalers;</u>	3412
<u>(14) Beverages;</u>	3413
<u>(15) Any other form approved by the state board department of pharmacy <u>commerce</u> under section 3796.061 of the Revised Code.</u>	3414 3415
(B) With respect to the methods of using medical marijuana, all of the following apply:	3416 3417
(1) The smoking or combustion of medical marijuana is prohibited.	3418 3419
(2) The vaporization of medical marijuana is permitted + .	3420
(3) The state board <u>department of pharmacy</u> commerce may approve additional methods of using medical marijuana, other than smoking or combustion, under section 3796.061 of the Revised Code.	3421 3422 3423 3424
(C) <u>With respect to the methods of using adult use marijuana, the vaporization, smoking, or combustion of marijuana by adult use consumers is permitted.</u>	3425 3426 3427
<u>(D) Any form or method that is considered attractive to children, as specified in rules adopted by the board <u>department</u>, is prohibited.</u>	3428 3429 3430
(D) <u>(E) With respect to tetrahydrocannabinol content, all of the following apply:</u>	3431 3432
(1) Plant material shall have a tetrahydrocannabinol	3433

content of not more than thirty-five per cent. 3434

(2) Extracts shall have a tetrahydrocannabinol content of 3435
not more than ~~seventy-ninety~~ per cent. 3436

Sec. 3796.061. (A) Any person may submit a petition to the 3437
~~state board department of pharmacy-commerce~~ requesting that a 3438
form of or method of using ~~medical-marijuana~~ be approved for the 3439
purposes of section 3796.06 of the Revised Code. A petition 3440
shall be submitted to the ~~board department~~ in a manner 3441
prescribed by the ~~board department~~. A petition shall not seek to 3442
approve a method of using medical marijuana that involves 3443
smoking or combustion. 3444

(B) On receipt of a petition, the ~~board department~~ shall 3445
review it to determine whether to approve the form of or method 3446
of using ~~medical-marijuana~~ described in the petition. ~~The board~~ 3447
~~may consolidate the review of petitions for the same or similar~~ 3448
~~forms or methods. In making its determination, the board shall~~ 3449
~~consult with one or more experts and review any relevant~~ 3450
~~scientific evidence~~The department shall either approve or deny 3451
the petition within sixty days of receipt. 3452

(C) ~~The board shall approve or deny the petition in~~ 3453
~~accordance with any rules adopted by the board under this~~ 3454
~~section. The board's decision is final.~~ 3455

~~(D)~~ ~~The board department~~ may adopt rules as necessary to 3456
implement this section. The rules shall be adopted in accordance 3457
with Chapter 119. of the Revised Code. 3458

Sec. 3796.07. The department of commerce shall establish 3459
and maintain an electronic database to monitor ~~medical-marijuana~~ 3460
from its seed source through its cultivation, processing, 3461
testing, and dispensing. The department may contract with a 3462

separate entity to establish and maintain all or any part of the 3463
electronic database on behalf of the department. 3464

The electronic database shall allow for information 3465
regarding ~~medical~~-marijuana to be updated instantaneously. Any 3466
cultivator, processor, retail dispensary, or laboratory licensed 3467
under this chapter shall submit to the department any 3468
information the department determines is necessary for 3469
maintaining the electronic database. 3470

The department and any entity under contract with the 3471
department shall not make public any information reported to or 3472
collected by the department under this division that identifies 3473
or would tend to identify any specific patient or adult use 3474
consumer. 3475

Sec. 3796.08. (A) (1) A-Until two hundred forty days after 3476
the effective date of this amendment, a patient seeking to use 3477
medical marijuana or a caregiver seeking to assist a patient in 3478
the use or administration of medical marijuana shall apply to 3479
the state board of pharmacy for registration; beginning two 3480
hundred forty days after the effective date of this amendment, a 3481
patient seeking to use medical marijuana or a caregiver seeking 3482
to assist a patient in the use or administration of medical 3483
marijuana shall apply to the department of commerce for 3484
registration. The physician who holds a certificate to recommend 3485
issued by the state medical board and is treating the patient or 3486
the physician's delegate shall submit the application on the 3487
patient's or caregiver's behalf in the manner established in 3488
rules adopted under section ~~3796.04~~-3796.03 of the Revised Code. 3489

(2) The application shall include all of the following: 3490

(a) A statement from the physician certifying all of the 3491

following: 3492

(i) That a bona fide physician-patient relationship exists 3493
between the physician and patient; 3494

(ii) That the patient has been diagnosed with a qualifying 3495
medical condition; 3496

(iii) That the physician or physician delegate has 3497
requested from the drug database a report of information related 3498
to the patient that covers at least the twelve months 3499
immediately preceding the date of the report; 3500

(iv) That the physician has informed the patient of the 3501
risks and benefits of medical marijuana as it pertains to the 3502
patient's qualifying medical condition and medical history. 3503

(b) In the case of an application submitted on behalf of a 3504
patient, the name or names of the one or more caregivers that 3505
will assist the patient in the use or administration of medical 3506
marijuana; 3507

(c) In the case of an application submitted on behalf of a 3508
caregiver, the name of the patient or patients that the 3509
caregiver seeks to assist in the use or administration of 3510
medical marijuana. 3511

(3) If the application is complete and meets the 3512
requirements established in rules, the board or department, as 3513
applicable, shall register the patient or caregiver and issue to 3514
the patient or caregiver an identification card. 3515

(B) The board or department, as applicable, shall not make 3516
public any information reported to or collected by the board or 3517
department under this section that identifies or would tend to 3518
identify any specific patient. 3519

Information collected by the board or department pursuant 3520
to this section is confidential and not a public record. The 3521
board or department may share identifying information with a 3522
licensed retail dispensary for the purpose of confirming that a 3523
person has a valid registration. Information that does not 3524
identify a person may be released in summary, statistical, or 3525
aggregate form. 3526

(C) A registration expires according to the renewal 3527
schedule established in rules adopted under section ~~3796.04~~ 3528
3796.03 of the Revised Code and may be renewed in accordance 3529
with procedures established in those rules. 3530

Sec. 3796.09. (A) An entity that seeks to cultivate or 3531
process ~~medical~~-marijuana or to conduct laboratory testing of 3532
~~medical~~-marijuana shall file an application for licensure with 3533
the department of commerce. The entity shall file an application 3534
for each location from which it seeks to operate. Each 3535
application shall be submitted in accordance with rules adopted 3536
under section 3796.03 of the Revised Code. 3537

(B) The department shall issue a license to an applicant 3538
if all of the following conditions are met: 3539

(1) The report of the criminal records check conducted 3540
pursuant to section 3796.12 of the Revised Code with respect to 3541
the application demonstrates that the person subject to the 3542
criminal records check requirement has not been convicted of or 3543
pleaded guilty to any of the disqualifying offenses specified in 3544
rules adopted under ~~section sections~~ 9.79 and ~~division (B) (2) (b)~~ 3545
~~of section~~ 3796.03 of the Revised Code. 3546

(2) The applicant demonstrates that it does not have an 3547
ownership or investment interest in or compensation arrangement 3548

with any of the following:	3549
(a) A laboratory licensed under this chapter;	3550
(b) An applicant for a license to conduct laboratory testing.	3551 3552
(3) The applicant demonstrates that it does not share any corporate officers or employees with any of the following:	3553 3554
(a) A laboratory licensed under this chapter;	3555
(b) An applicant for a license to conduct laboratory testing.	3556 3557
(4) The applicant demonstrates that it will not be located within five hundred feet of a school, church, public library, public playground, or public park.	3558 3559 3560
(5) The information provided to the department pursuant to section 3796.11 of the Revised Code demonstrates that the applicant is in compliance with the applicable tax laws of this state.	3561 3562 3563 3564
(6) The applicant meets all other licensure eligibility conditions established in rules adopted under section 3796.03 of the Revised Code.	3565 3566 3567
(C) The department shall issue not less than fifteen per cent of cultivator, processor, or laboratory licenses to entities that are owned and controlled by United States citizens who are residents of this state and are members of one of the following economically disadvantaged groups: Blacks or African Americans, American Indians, Hispanics or Latinos, and Asians. If no applications or an insufficient number of applications are submitted by such entities that meet the conditions set forth in division (B) of this section, the licenses shall be issued	3568 3569 3570 3571 3572 3573 3574 3575 3576

~~according to usual procedures.~~ 3577

~~As used in this division, "owned and controlled" means~~ 3578
~~that at least fifty-one per cent of the business, including~~ 3579
~~corporate stock if a corporation, is owned by persons who belong~~ 3580
~~to one or more of the groups set forth in this division, and~~ 3581
~~that those owners have control over the management and day-to-~~ 3582
~~day operations of the business and an interest in the capital,~~ 3583
~~assets, and profits and losses of the business proportionate to~~ 3584
~~their percentage of ownership.~~ 3585

~~(D)~~ A license expires according to the renewal schedule 3586
established in rules adopted under section 3796.03 of the 3587
Revised Code and may be renewed in accordance with the 3588
procedures established in those rules. 3589

Sec. 3796.10. (A) An entity that seeks to dispense 3590
marijuana at a retail medical-marijuana dispensary shall file an 3591
application for licensure with the ~~state board department of~~ 3592
pharmacycommerce. The entity shall file an application for each 3593
location from which it seeks to operate. Each application shall 3594
be submitted in accordance with rules adopted under section 3595
~~3796.04~~ 3796.03 of the Revised Code. 3596

(B) The ~~board department~~ shall issue a license to an 3597
applicant if all of the following conditions are met: 3598

(1) The report of the criminal records check conducted 3599
pursuant to section 3796.12 of the Revised Code with respect to 3600
the application demonstrates that the person subject to the 3601
criminal records check requirement has not been convicted of ~~or~~ 3602
~~pleaded guilty to~~ any of the disqualifying offenses specified in 3603
rules adopted under ~~section sections~~ 9.79 and ~~division (B)(2)(b)~~ 3604
~~of section 3796.04~~ 3796.03 of the Revised Code. 3605

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

(a) A laboratory licensed under this chapter;

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

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

(a) A laboratory licensed under this chapter;

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

(4) The applicant demonstrates that it will not be located within five hundred feet of a school, church, public library, public playground, or public park.

(5) The information provided to the ~~board~~department pursuant to section 3796.11 of the Revised Code demonstrates that the applicant is in compliance with the applicable tax laws of this state.

(6) The applicant meets all other licensure eligibility conditions established in rules adopted under section ~~3796.04~~3796.03 of the Revised Code.

~~(C) The board shall issue not less than fifteen per cent of retail dispensary licenses to entities that are owned and controlled by United States citizens who are residents of this state and are members of one of the following economically disadvantaged groups: Blacks or African Americans, American Indians, Hispanics or Latinos, and Asians. If no applications or an insufficient number of applications are submitted by such~~

~~entities that meet the conditions set forth in division (B) of
this section, the licenses shall be issued according to usual
procedures.~~ 3634
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~~As used in this division, "owned and controlled" means
that at least fifty one per cent of the business, including
corporate stock if a corporation, is owned by persons who belong
to one or more of the groups set forth in this division, and
that those owners have control over the management and day to
day operations of the business and an interest in the capital,
assets, and profits and losses of the business proportionate to
their percentage of ownership.~~ 3637
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~~(D) A license expires according to the renewal schedule
established in rules adopted under section ~~3796.04~~ 3796.03 of
the Revised Code and may be renewed in accordance with the
procedures established in those rules.~~ 3645
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Sec. 3796.11. (A) (1) Notwithstanding section 149.43 of the 3649
Revised Code or any other public records law to the contrary or 3650
any law relating to the confidentiality of tax return 3651
information, upon the request of the department of commerce ~~or~~ 3652
~~state board of pharmacy~~, the department of taxation shall 3653
provide to the department of commerce ~~or board~~ all of the 3654
following information: 3655

(a) Whether an applicant for licensure under this chapter 3656
is in compliance with the applicable tax laws of this state; 3657

(b) Any past or pending violation by the applicant of 3658
those tax laws, and any penalty imposed on the applicant for 3659
such a violation. 3660

(2) The department of commerce ~~or board~~ shall request the 3661
information only as it pertains to an application for licensure 3662

that the department of commerce ~~or board, as applicable,~~ is 3663
reviewing. 3664

(3) The department of taxation may charge the department 3665
of commerce ~~or board~~ a reasonable fee to cover the 3666
administrative cost of providing the information. 3667

(B) Information received under this section is 3668
confidential. Except as otherwise permitted by other state law 3669
or federal law, the department of commerce ~~or board~~ shall not 3670
make the information available to any person other than the 3671
applicant for licensure to whom the information applies. 3672

Sec. 3796.12. (A) As used in this section, "criminal 3673
records check" has the same meaning as in section 109.572 of the 3674
Revised Code. 3675

(B) (1) As part of the application process for a license 3676
issued under this chapter, the department of commerce ~~or state-~~ 3677
~~board of pharmacy, whichever is issuing the license,~~ shall 3678
~~require each of the following to determine which individuals~~ 3679
shall complete a criminal records check: 3680

~~(a) An administrator or other person responsible for the~~ 3681
~~daily operation of the entity seeking the license;~~ 3682

~~(b) An owner or prospective owner, officer or prospective~~ 3683
~~officer, or board member or prospective board member of the~~ 3684
~~entity seeking the license.~~ 3685

(2) If a person subject to the criminal records check 3686
requirement does not present proof of having been a resident of 3687
this state for the five-year period immediately prior to the 3688
date the criminal records check is requested or provide evidence 3689
that within that five-year period the superintendent of the 3690
bureau of criminal identification and investigation has 3691

requested information about the person from the federal bureau 3692
of investigation in a criminal records check, the department ~~or~~ 3693
~~board~~ shall request that the person obtain through the 3694
superintendent a criminal records request from the federal 3695
bureau of investigation as part of the criminal records check of 3696
the person. Even if a person presents proof of having been a 3697
resident of this state for the five-year period, the department 3698
~~or board~~ may request that the person obtain information through 3699
the superintendent from the federal bureau of investigation in 3700
the criminal records check. 3701

(C) The department ~~or board~~ shall provide the following to 3702
each person who is subject to the criminal records check 3703
requirement: 3704

(1) Information about accessing, completing, and 3705
forwarding to the superintendent of the bureau of criminal 3706
identification and investigation the form prescribed pursuant to 3707
division (C) (1) of section 109.572 of the Revised Code and the 3708
standard impression sheet to obtain fingerprint impressions 3709
prescribed pursuant to division (C) (2) of that section; 3710

(2) Written notification that the person is to instruct 3711
the superintendent to submit the completed report of the 3712
criminal records check directly to the department ~~or board~~. 3713

(D) Each person who is subject to the criminal records 3714
check requirement shall pay to the bureau of criminal 3715
identification and investigation the fee prescribed pursuant to 3716
division (C) (3) of section 109.572 of the Revised Code for the 3717
criminal records check conducted of the person. 3718

(E) The report of any criminal records check conducted by 3719
the bureau of criminal identification and investigation in 3720

accordance with section 109.572 of the Revised Code and pursuant 3721
to a request made under this section is not a public record for 3722
the purposes of section 149.43 of the Revised Code and shall not 3723
be made available to any person other than the following: 3724

(1) The person who is the subject of the criminal records 3725
check or the person's representative; 3726

(2) The members and staff of the department ~~or board~~; 3727

(3) A court, hearing officer, or other necessary 3728
individual involved in a case dealing with either of the 3729
following: 3730

(a) A license denial resulting from the criminal records 3731
check; 3732

(b) A civil or criminal action regarding ~~the medical-~~ 3733
~~marijuana control program or~~ any violation of this chapter. 3734

(F) The department ~~or board~~ shall deny a license if, after 3735
receiving the information and notification required by this 3736
section, a person subject to the criminal records check 3737
requirement fails to do either of the following: 3738

(1) Access, complete, or forward to the superintendent of 3739
the bureau of criminal identification and investigation the form 3740
prescribed pursuant to division (C) (1) of section 109.572 of the 3741
Revised Code or the standard impression sheet prescribed 3742
pursuant to division (C) (2) of that section; 3743

(2) Instruct the superintendent to submit the completed 3744
report of the criminal records check directly to the department 3745
~~or board~~. 3746

Sec. 3796.13. (A) Each person seeking employment with an 3747
entity licensed under this chapter shall comply with sections 3748

4776.01 to 4776.04 of the Revised Code. Except as provided in 3749
division (B) of this section, such an entity shall not employ 3750
the person unless the person complies with those sections and 3751
the report of the resulting criminal records check demonstrates 3752
that the person has not been convicted of ~~or pleaded guilty to~~ 3753
~~the following:~~ 3754

~~(1) Any~~ any of the disqualifying offenses specified in 3755
rules adopted under ~~division (B) (8) (a) of~~ section 3796.03 of the 3756
Revised Code if the person is seeking employment with an entity 3757
licensed by the department of commerce under this chapter. 3758

~~(2) Any of the disqualifying offenses specified in rules~~ 3759
~~adopted under division (B) (14) (a) of~~ section 3796.04 of the 3760
Revised Code if the person is seeking employment with an entity 3761
~~licensed by the state board of pharmacy under this chapter.~~ 3762

(B) An entity is not prohibited by division (A) of this 3763
section from employing a person if the following applies: 3764

(1) In the case of a person seeking employment with an 3765
entity licensed by the department of commerce under this 3766
chapter, the disqualifying offense the person was convicted of 3767
~~or pleaded guilty to~~ is one of the offenses specified in rules 3768
adopted under ~~division (B) (8) (b) of~~ section 3796.03 of the 3769
Revised Code and the person was convicted of ~~or pleaded guilty~~ 3770
~~to~~ the offense more than five years before the date the 3771
employment begins. 3772

(2) In the case of a person seeking employment with an 3773
entity licensed by the ~~state board~~ department of pharmacy 3774
commerce under this chapter, the disqualifying offense the 3775
person was convicted of ~~or pleaded guilty to~~ is one of the 3776
offenses specified in rules adopted under ~~division (B) (14) (b) of~~ 3777

section ~~3796.04~~3796.03 of the Revised Code and the person was 3778
convicted of ~~or pleaded guilty to~~ the offense more than five 3779
years before the date the employment begins. 3780

Sec. 3796.14. (A) (1) The department of commerce may do any 3781
of the following for any reason specified in rules adopted under 3782
section 3796.03 of the Revised Code: 3783

(a) Suspend, suspend without prior hearing, revoke, or 3784
refuse to renew a license it issued under this chapter; 3785

(b) Refuse to issue a license; 3786

(c) Impose on a license holder a civil penalty in an 3787
amount to be determined by the department. 3788

The department's actions under this division shall be 3789
taken in accordance with Chapter 119. of the Revised Code. 3790

(2) The department may inspect the premises of an 3791
applicant for licensure or holder of a current, valid 3792
cultivator, processor, retailer, or laboratory license issued 3793
under this chapter without prior notice to the applicant or 3794
license holder. 3795

~~(B) (1) (B) The state board of pharmacy may do any of the~~ 3796
~~following for any reason specified in rules adopted under~~ 3797
~~section 3796.04 of the Revised Code:~~ 3798

~~(a) Suspend, suspend without prior hearing, revoke, or~~ 3799
~~refuse to renew a license or registration it issued under this~~ 3800
~~chapter;~~ 3801

~~(b) Refuse to issue a license;~~ 3802

~~(c) Impose on a license holder a civil penalty in an~~ 3803
~~amount to be determined by the board.~~ 3804

~~The board's actions under this division shall be taken in accordance with Chapter 119. of the Revised Code.~~ 3805
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~~(2) The board may inspect all of the following without prior notice to the applicant or license holder:~~ 3807
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~~(a) The premises of an applicant for licensure;~~ 3809

~~(b) The premises of and all records maintained pursuant to this chapter by a holder of a current, valid retail dispensary license.~~ 3810
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~~(3) With respect to a suspension without prior hearing, the board may utilize a telephone conference call to review the allegations and take a vote. The board department shall suspend a license without prior hearing only if it finds clear and convincing evidence that continued distribution of ~~medical~~ marijuana presents a danger of immediate and serious harm to others. The ~~board~~ department shall comply with section 119.07 of the Revised Code.~~ 3813
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The suspension shall remain in effect, unless lifted by the ~~board~~ department, until the ~~board~~ department issues its final adjudication order. If the ~~board~~ department does not issue the order within ninety days after the adjudication hearing, the suspension shall be lifted on the ninety-first day following the hearing. 3821
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Sec. 3796.15. (A) The ~~state board~~ department of ~~pharmacy~~ commerce shall enforce this chapter, or cause it to be enforced, ~~sections 3796.08, 3796.10, 3796.20, 3796.22, and 3796.23 of the Revised Code.~~ If ~~it~~ the department has information that any provision of ~~these sections~~ this chapter or any rule adopted under this chapter has been violated, it shall investigate the matter and take any action as it considers appropriate. 3827
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(B) Nothing in this chapter shall be construed to require 3834
the ~~state board of pharmacy department~~ to enforce minor 3835
violations if the ~~board department~~ determines that the public 3836
interest is adequately served by a notice or warning to the 3837
alleged offender. 3838

(C) If the ~~board department~~ suspends, revokes, or refuses 3839
to renew any license or registration issued under this chapter 3840
and determines that there is clear and convincing evidence of a 3841
danger of immediate and serious harm to any person, the ~~board~~ 3842
~~department~~ may place under seal all ~~medical~~-marijuana owned by 3843
or in the possession, custody, or control of the affected 3844
license holder or registrant. Except as provided in this 3845
division, the ~~board department~~ shall not dispose of the ~~medical~~- 3846
marijuana sealed under this division until the license holder or 3847
registrant exhausts all of the holder's or registrant's appeal 3848
rights under Chapter 119. of the Revised Code. The court 3849
involved in such an appeal may order the ~~board department~~, during 3850
the pendency of the appeal, to sell ~~medical~~-marijuana that is 3851
perishable. The ~~board department~~ shall deposit the proceeds of 3852
the sale with the court. 3853

Sec. 3796.16. (A) (1) The ~~state board department~~ of 3854
~~pharmacy commerce~~ shall attempt in good faith to negotiate and 3855
enter into a reciprocity agreement with any other state under 3856
which a medical marijuana registry identification card or 3857
equivalent authorization that is issued by the other state is 3858
recognized in this state, if the ~~board department~~ determines 3859
that both of the following apply: 3860

(a) The eligibility requirements imposed by the other 3861
state for that authorization are substantially comparable to the 3862
eligibility requirements for a patient or caregiver registration 3863

and identification card issued under this chapter. 3864

(b) The other state recognizes a patient or caregiver 3865
registration and identification card issued under this chapter. 3866

(2) The ~~board~~department shall not negotiate any agreement 3867
with any other state under which an authorization issued by the 3868
other state is recognized in this state other than as provided 3869
in division (A) (1) of this section. 3870

(B) If a reciprocity agreement is entered into in 3871
accordance with division (A) of this section, the authorization 3872
issued by the other state shall be recognized in this state, 3873
shall be accepted and valid in this state, and grants the 3874
patient or caregiver the same right to use, possess, obtain, or 3875
administer medical marijuana in this state as a patient or 3876
caregiver who was registered and issued an identification card 3877
under this chapter. 3878

(C) The ~~board~~department may adopt any rules as necessary 3879
to implement this section. 3880

Sec. 3796.17. The ~~state board~~department of ~~pharmacy~~
commerce shall establish a toll-free telephone line to respond 3881
to inquiries from patients, caregivers, and health professionals 3882
regarding adverse reactions to medical marijuana and to provide 3883
information about available services and assistance. The ~~board~~
department may contract with a separate entity to establish and 3884
maintain the telephone line on behalf of the ~~board~~department. 3885
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Sec. 3796.18. (A) Notwithstanding any conflicting 3888
provision of the Revised Code and except as provided in division 3889
~~(B)~~(C) of this section, the holder of a current, valid 3890
cultivator license issued under this chapter may do either of 3891
the following: 3892

(1) Cultivate ~~medical-marijuana~~, including the acquisition of seeds or clones necessary to begin cultivation of a particular cultivar or strain of marijuana; 3893
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(2) Deliver or sell ~~medical-marijuana~~ to one or more licensed processors or retail dispensaries. 3896
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(B) ~~A~~ When delivering or selling marijuana to a licensed retail dispensary, a licensed cultivator shall do all of the following: 3898
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(1) Package the marijuana in accordance with the child-resistant effectiveness standards described in 16 C.F.R. 1700.15(b) on the effective date of this amendment; 3901
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(2) Label the marijuana packaging with the product's tetrahydrocannabinol and cannabidiol content; 3904
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(3) Comply with any packaging or labeling requirements established in rules adopted by the department of commerce under section 3796.03 of the Revised Code. 3906
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(C) Except as provided in division (A) (3) (d) of section 3796.22 of the Revised Code, a cultivator license holder shall not cultivate ~~medical-marijuana~~ for personal, family, or household use ~~or~~; 3909
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(D) A cultivator license holder shall not cultivate marijuana on any public land, including a state park as defined in section 154.01 of the Revised Code. 3913
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(E) A holder of a current, valid, cultivator license issued under this chapter shall not be subject to arrest or criminal prosecution for engaging in any of the activities authorized under this chapter. 3916
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Sec. 3796.19. (A) Notwithstanding any conflicting 3920

provision of the Revised Code, the holder of a current, valid processor license issued under this chapter may do any of the following:

(1) Obtain ~~medical-marijuana~~ from one or more licensed cultivators, processors, or retail dispensaries;

(2) Subject to division (B) of this section, process ~~medical-marijuana obtained from one or more licensed cultivators~~ into a form described in section 3796.06 of the Revised Code;

(3) Deliver or sell processed ~~medical-marijuana~~ to one or more licensed retail dispensaries.

(B) When processing ~~medical-marijuana~~, a licensed processor shall do both of the following:

(1) Package the ~~medical-marijuana~~ in accordance with child-resistant effectiveness standards described in 16 C.F.R. 1700.15(b) on the effective date of this section, September 8, 2016;

(2) Label the ~~medical-marijuana~~ packaging with the product's tetrahydrocannabinol and cannabidiol content;

(3) Comply with any packaging or labeling requirements established in rules adopted by the department of commerce under section 3796.03 of the Revised Code.

(C) A holder of a current, valid, processor license issued under this chapter shall not be subject to arrest or criminal prosecution for engaging in any of the activities authorized under this chapter.

Sec. 3796.20. (A) Notwithstanding any conflicting provision of the Revised Code, the holder of a current, valid retail dispensary license issued under this chapter may do ~~both~~

- any of the following: 3949
- (1) Obtain ~~medical~~ marijuana from one or more cultivators, 3950
processors, or other retail dispensaries, if the retail 3951
dispensaries have common ownership; 3952
- (2) Dispense or sell medical marijuana and paraphernalia 3953
in accordance with division (B) of this section; 3954
- (3) Beginning two hundred forty days after the effective 3955
date of this amendment, dispense or sell marijuana and 3956
paraphernalia to adult consumers in accordance with division (B) 3957
of this section; 3958
- (4) Deliver marijuana, medical marijuana, paraphernalia, 3959
and accessories specified in the rules adopted pursuant to 3960
section 3796.03 of the Revised Code to registered patients and 3961
adult consumers. 3962
- (B) When dispensing or selling marijuana or medical 3963
marijuana, a licensed retail dispensary shall do all of the 3964
following: 3965
- (1) Dispense or sell only upon a showing of a current, 3966
valid identification card and in the case of the sale of medical 3967
marijuana to registered patients, in accordance with a written 3968
recommendation issued by a physician ~~in accordance with an~~ 3969
holding a certificate to recommend issued by the state medical 3970
board under section 4731.30 of the Revised Code; 3971
- (2) Report to the ~~drug database the information required~~ 3972
~~by electronic database established pursuant to section 4729.771-~~ 3973
3796.07 of the Revised Code information required by the rules 3974
adopted by the department under this chapter; 3975
- (3) Label the package containing marijuana or medical 3976

marijuana with the following information: 3977

(a) The name and address of the licensed processor and 3978
retail dispensary; 3979

~~(b) The name of the patient and caregiver, if any;~~ 3980

~~(c) The name of the physician who recommended treatment 3981
with medical marijuana;~~ 3982

~~(d) The directions for use, if any, as recommended by the 3983
physician;~~ 3984

~~(e) The date on which the marijuana or medical marijuana 3985
was dispensed;~~ 3986

~~(f) (c) The quantity, strength, kind, or form of marijuana 3987
or medical marijuana contained in the package;~~ 3988

(d) Any other information required by the department 3989
pursuant to rules adopted under section 3796.03 of the Revised 3990
Code. 3991

(4) In addition to the information required under division 3992
(B) (3) of this section, label the package containing medical 3993
marijuana with the following information: 3994

(a) The name of the patient and caregiver, if any; 3995

(b) The name of the physician who recommended treatment 3996
with medical marijuana; 3997

(c) The directions for use, if any, as recommended by the 3998
physician. 3999

(C) When operating a licensed retail dispensary, both of 4000
the following apply: 4001

(1) A dispensary shall use only employees who have met the 4002

training requirements established in rules adopted under section 4003
~~3796.04~~ 3796.03 of the Revised Code. 4004

(2) A dispensary shall not make public any information it 4005
collects that identifies or would tend to identify any specific 4006
registered patient or adult consumer. 4007

(D) A holder of a current, valid, retail dispensary 4008
license issued under this chapter shall not be subject to arrest 4009
or criminal prosecution for engaging in any of the activities 4010
authorized under this chapter. 4011

Sec. 3796.21. (A) Notwithstanding any conflicting 4012
provision of the Revised Code, the holder of a current, valid 4013
laboratory license issued under this chapter may do both of the 4014
following: 4015

(1) Obtain marijuana and medical marijuana from one or 4016
more cultivators, processors, and retail dispensaries licensed 4017
under this chapter; 4018

(2) Conduct marijuana and medical marijuana testing in the 4019
manner specified in rules adopted under section 3796.03 of the 4020
Revised Code. 4021

(B) When testing medical marijuana, a licensed laboratory 4022
shall do both of the following: 4023

(1) Test the marijuana for potency, homogeneity, and 4024
contamination; 4025

(2) Prepare a report of the test results. 4026

(C) A holder of a current, valid, laboratory license 4027
issued under this chapter shall not be subject to arrest or 4028
criminal prosecution for engaging in any of the activities 4029
authorized under this chapter. 4030

Sec. 3796.22. (A) Notwithstanding any conflicting 4031
provision of the Revised Code, an adult consumer and a patient 4032
registered under this chapter who obtains marijuana or medical 4033
marijuana from a retail dispensary licensed under this chapter 4034
may do ~~both~~ any of the following: 4035

(1) Use ~~medical~~ marijuana; 4036

(2) ~~Possess~~ In the case of a registered patient, possess 4037
and use medical marijuana, ~~subject to division (B) of this~~ 4038
~~section and paraphernalia;~~ 4039

(3) In the case of an adult consumer, all of the 4040
following: 4041

(a) Possess, use, display, purchase, or transport not more 4042
than fifty grams of marijuana, with not more than eight grams 4043
being in the form of marijuana concentrate; 4044

(b) Subject to Chapter 3794. of the Revised Code, consume 4045
or use marijuana, including without limitation by combustion or 4046
smoking; 4047

(c) Transfer twenty-five grams or less of marijuana 4048
without remuneration to another adult consumer; 4049

(d) Without the need to obtain a license, cultivate, grow, 4050
process, and transport not more than six marijuana plants per 4051
household, with three or fewer of such plants being mature 4052
flowering plants, and possess marijuana produced by the plants 4053
on the premises where the plants were grown or cultivated, 4054
provided that the growing and cultivation takes place in an 4055
enclosed, locked space, is not conducted openly or publicly, and 4056
is not made available for sale; 4057

(e) Assist another adult consumer in any of the acts 4058

specified in divisions (A) (3) (a) to (c) of this section. 4059

~~(4) Possess any paraphernalia or accessories specified in rules adopted under section 3796.04 of the Revised Code.~~ 4060
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(B) The amount of medical marijuana possessed by a registered patient shall not exceed ~~a ninety-day supply, as the amount~~ specified in rules adopted under section 3796.04-3796.03 of the Revised Code. 4062
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(C) ~~A registered patient~~ Registered patients and adult consumers shall not be subject to arrest or criminal prosecution for ~~doing engaging in any of the following in accordance with activities authorized under this chapter.~~ 4066
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~~(1) Obtaining, using, or possessing medical marijuana;~~ 4070

~~(2) Possessing any paraphernalia or accessories specified in rules adopted under section 3796.04 of the Revised Code.~~ 4071
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(D) This section does not authorize an adult use consumer or a registered patient to operate a vehicle, streetcar, trackless trolley, watercraft, or aircraft while under the influence of marijuana or medical marijuana. 4073
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Sec. 3796.23. (A) Notwithstanding any conflicting provision of the Revised Code, a caregiver registered under this chapter who obtains ~~medical~~ marijuana from a retail dispensary licensed under this chapter may do both of the following: 4077
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(1) Possess ~~medical~~ marijuana on behalf of a registered patient under the caregiver's care, subject to division (B) of this section; 4081
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(2) Assist a registered patient under the caregiver's care in the use or administration of ~~medical~~ marijuana; 4084
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(3) Possess any paraphernalia or accessories specified in 4086
rules adopted under section ~~3796.04~~3796.03 of the Revised Code. 4087

(B) The amount of ~~medical~~-marijuana possessed by a 4088
registered caregiver on behalf of a registered patient shall not 4089
exceed a ~~ninety-day supply~~, as ~~the amount~~ specified in rules 4090
adopted under section ~~3796.04~~3796.03 of the Revised Code. If a 4091
caregiver provides care to more than one registered patient, the 4092
caregiver shall maintain separate inventories of ~~medical~~- 4093
marijuana for each patient. 4094

(C) A registered caregiver shall not be subject to arrest 4095
or criminal prosecution for doing any of following in accordance 4096
with this chapter: 4097

(1) Obtaining or possessing medical marijuana on behalf of 4098
a registered patient; 4099

(2) Assisting a registered patient in the use or 4100
administration of medical marijuana; 4101

(3) Possessing any paraphernalia ~~or accessories specified~~ 4102
~~in rules adopted under section 3796.04 of the Revised Code.~~ 4103

(D) This section does not permit a registered caregiver to 4104
personally use medical marijuana, unless the caregiver is also a 4105
registered patient. 4106

Sec. 3796.24. (A) The holder of a license, as defined in 4107
section 4776.01 of the Revised Code, is not subject to 4108
professional disciplinary action solely for engaging in 4109
professional or occupational activities related to ~~medical~~- 4110
marijuana. 4111

(B) Unless there is clear and convincing evidence that a 4112
child is unsafe, the use, possession, or administration of 4113

medical marijuana in accordance with this chapter shall not be 4114
the sole or primary basis for any of the following: 4115

(1) An adjudication under section 2151.28 of the Revised 4116
Code determining that a child is an abused, neglected, or 4117
dependent child; 4118

(2) An allocation of parental rights and responsibilities 4119
under section 3109.04 of the Revised Code; 4120

(3) A parenting time order under section 3109.051 or 4121
3109.12 of the Revised Code. 4122

(C) Notwithstanding any conflicting provision of the 4123
Revised Code, the use or possession of ~~medical-marijuana~~ by a 4124
registered patient in accordance with this chapter shall not be 4125
used as a reason for disqualifying a registered patient from 4126
medical care or from including a patient on a transplant waiting 4127
list. 4128

(D) Notwithstanding any conflicting provision of the 4129
Revised Code, the use, possession, administration, cultivation, 4130
processing, testing, transporting, sale, delivery, transferring, 4131
or dispensing of ~~medical-marijuana~~ in accordance with this 4132
chapter shall not be used as the sole or primary reason for 4133
taking action under any criminal or civil statute in the 4134
forfeiture or seizure of any property or asset. 4135

(E) Notwithstanding any conflicting provision of the 4136
Revised Code, a person's status as a registered patient or 4137
caregiver is not a sufficient basis for conducting a field 4138
sobriety test on the person or for suspending the person's 4139
driver's license. To conduct any field sobriety test, a law 4140
enforcement officer must have an independent, factual basis 4141
giving reasonable suspicion that the person is operating a 4142

vehicle under the influence of marijuana or with a prohibited 4143
concentration of marijuana in the person's whole blood, blood 4144
serum, plasma, breath, or urine. 4145

(F) Notwithstanding any conflicting provision of the 4146
Revised Code, a person's status as a registered patient or 4147
caregiver shall not be used as the sole or primary basis for 4148
rejecting the person as a tenant unless the rejection is 4149
required by federal law. 4150

(G) This chapter does not do any of the following: 4151

(1) Require a physician to recommend that a patient use 4152
medical marijuana to treat a qualifying medical condition; 4153

(2) Permit the use, possession, or administration of 4154
~~medical~~-marijuana other than as authorized by this chapter; 4155

(3) Permit the use, possession, or administration of 4156
~~medical~~-marijuana on federal land located in this state; 4157

(4) Require any public place to accommodate a registered 4158
patient's or adult use consumer's use of ~~medical~~-marijuana; 4159

(5) Prohibit any public place from accommodating a 4160
registered patient's or adult use consumer's use of ~~medical~~- 4161
marijuana; 4162

(6) Restrict research related to marijuana conducted at a 4163
state university, academic medical center, or private research 4164
and development organization as part of a research protocol 4165
approved by an institutional review board or equivalent entity. 4166

Sec. 3796.27. (A) As used in this section: 4167

(1) "Financial institution" means any of the following: 4168

(a) Any bank, trust company, savings and loan association, 4169

savings bank, or credit union or any affiliate, agent, or 4170
employee of a bank, trust company, savings and loan association, 4171
savings bank, or credit union; 4172

(b) Any money transmitter licensed under sections 1315.01 4173
to 1315.18 of the Revised Code or any affiliate, agent, or 4174
employee of such a licensee. 4175

(2) "Financial services" means services that a financial 4176
institution is authorized to provide under Title XI, sections 4177
1315.01 to 1315.18, or Chapter 1733. of the Revised Code, as 4178
applicable. 4179

(B) A financial institution that provides financial 4180
services to any cultivator, processor, retail dispensary, or 4181
laboratory licensed under this chapter shall be exempt from any 4182
criminal law of this state an element of which may be proven by 4183
substantiating that a person provides financial services to a 4184
person who possesses, delivers, or manufactures marijuana or 4185
marijuana derived products, including section 2925.05 of the 4186
Revised Code and sections 2923.01 and 2923.03 of the Revised 4187
Code as those sections apply to violations of Chapter 2925. of 4188
the Revised Code, if the cultivator, processor, retail 4189
dispensary, or laboratory is in compliance with this chapter and 4190
the applicable tax laws of this state. 4191

(C) (1) Notwithstanding section 149.43 of the Revised Code 4192
or any other public records law to the contrary, upon the 4193
request of a financial institution, the department of commerce 4194
~~or state board of pharmacy~~ shall provide to the financial 4195
institution all of the following information: 4196

(a) Whether a person with whom the financial institution 4197
is seeking to do business is a cultivator, processor, retail 4198

dispensary, or laboratory licensed under this chapter;	4199
(b) The name of any other business or individual affiliated with the person;	4200 4201
(c) An unredacted copy of the application for a license under this chapter, and any supporting documentation, that was submitted by the person;	4202 4203 4204
(d) If applicable, information relating to sales and volume of product sold by the person;	4205 4206
(e) Whether the person is in compliance with this chapter;	4207
(f) Any past or pending violation by the person of this chapter, and any penalty imposed on the person for such a violation.	4208 4209 4210
(2) The department or board may charge a financial institution a reasonable fee to cover the administrative cost of providing the information.	4211 4212 4213
(D) Information received by a financial institution under division (C) of this section is confidential. Except as otherwise permitted by other state law or federal law, a financial institution shall not make the information available to any person other than the customer to whom the information applies and any trustee, conservator, guardian, personal representative, or agent of that customer.	4214 4215 4216 4217 4218 4219 4220
Sec. 3796.28. (A) Nothing in this chapter does any of the following:	4221 4222
(1) Requires an employer to permit or accommodate an employee's use, possession, or distribution of medical marijuana;	4223 4224 4225

(2) Prohibits an employer from refusing to hire, 4226
discharging, disciplining, or otherwise taking an adverse 4227
employment action against a person with respect to hire, tenure, 4228
terms, conditions, or privileges of employment because of that 4229
person's use, possession, or distribution of ~~medical-marijuana~~; 4230

(3) Prohibits an employer from establishing and enforcing 4231
a drug testing policy, drug-free workplace policy, or zero- 4232
tolerance drug policy; 4233

(4) Interferes with any federal restrictions on 4234
employment, including the regulations adopted by the United 4235
States department of transportation in Title 49 of the Code of 4236
Federal Regulations, as amended; 4237

(5) Permits a person to commence a cause of action against 4238
an employer for refusing to hire, discharging, disciplining, 4239
discriminating, retaliating, or otherwise taking an adverse 4240
employment action against a person with respect to hire, tenure, 4241
terms, conditions, or privileges of employment related to 4242
~~medical-marijuana~~; 4243

~~(6) Affects the authority of the administrator of workers' 4244
compensation to grant rebates or discounts on premium rates to 4245
employers that participate in a drug-free workplace program 4246
established in accordance with rules adopted by the 4247
administrator under Chapter 4123. of the Revised Code. 4248~~

(B) A person-registered patient who is discharged from 4249
employment because of that person's use of ~~medical-marijuana~~ 4250
shall be considered to have been discharged for just cause for 4251
purposes of division (D) of section 4141.29 of the Revised Code 4252
if the person's-registered patient's use of ~~medical-marijuana~~ 4253
was in violation of an employer's drug-free workplace policy, 4254

zero-tolerance policy, or other formal program or policy 4255
regulating the use of ~~medical~~-marijuana. 4256

(C) It is not a violation of division (A), (D), or (E) of 4257
section 4112.02 of the Revised Code if an employer discharges, 4258
refuses to hire, or otherwise discriminates against a person 4259
because of that person's use of ~~medical~~-marijuana if the 4260
person's use of ~~medical~~-marijuana is in violation of the 4261
employer's drug-free workplace policy, zero-tolerance policy, or 4262
other formal program or policy regulating the use of ~~medical~~- 4263
marijuana. 4264

Sec. 3796.29. (A) The legislative authority of a municipal 4265
corporation may adopt an ordinance, or a board of township 4266
trustees may adopt a resolution, to prohibit, or limit the 4267
number of, cultivators, processors, or retail dispensaries 4268
licensed under this chapter within the municipal corporation or 4269
within the unincorporated territory of the township, 4270
respectively. 4271

(B) This section does not authorize the legislative 4272
authority of a municipal corporation or a board of township 4273
trustees to adopt an ordinance or resolution limiting ~~research,~~ 4274
prohibiting, or criminalizing any of the following as authorized 4275
by this chapter: 4276

(1) Research related to marijuana conducted at a state 4277
university, academic medical center, or private research and 4278
development organization as part of a research protocol approved 4279
by an institutional review board or equivalent entity; 4280

(2) Use, possession, or delivery of marijuana or medical 4281
marijuana by adult use consumers or registered patients in 4282
accordance with this chapter; 4283

(3) The activities authorized by division (A) (3) (d) of 4284
section 3796.22 of the Revised Code. 4285

Sec. 3796.30. (A) Except as provided in division (B) of 4286
this section, no ~~medical~~-marijuana cultivator, processor, retail 4287
dispensary, or laboratory that tests medical marijuana shall be 4288
located within five hundred feet of the boundaries of a parcel 4289
of real estate having situated on it a school, church, public 4290
library, public playground, or public park. 4291

If the relocation of a cultivator, processor, retail 4292
dispensary, or laboratory licensed under this chapter results in 4293
the cultivator, processor, retail dispensary, or laboratory 4294
being located within five hundred feet of the boundaries of a 4295
parcel of real estate having situated on it a school, church, 4296
public library, public playground, or public park, the 4297
department of commerce ~~or state board of pharmacy shall revoke~~ 4298
~~the license it previously issued to the cultivator, processor,~~ 4299
~~retail dispensary, or laboratory~~ deny the request to relocate. 4300

(B) This section does not apply to research related to 4301
marijuana conducted at a state university, academic medical 4302
center, or private research and development organization as part 4303
of a research protocol approved by an institutional review board 4304
or equivalent entity. 4305

(C) As used in this section and ~~sections 3796.04 and~~ 4306
section 3796.12 of the Revised Code: 4307

"Church" has the meaning defined in section 1710.01 of the 4308
Revised Code. 4309

"Public library" means a library provided for under 4310
Chapter 3375. of the Revised Code. 4311

"Public park" means a park established by the state or a 4312

political subdivision of the state including a county, township, 4313
municipal corporation, or park district. 4314

"Public playground" means a playground established by the 4315
state or a political subdivision of the state including a 4316
county, township, municipal corporation, or park district. 4317

"School" means a child day-care center as defined under 4318
section 5104.01 of the Revised Code, a preschool as defined 4319
under section 2950.034 of the Revised Code, or a public or 4320
nonpublic primary school or secondary school. 4321

Sec. 3796.32. (A) The department may adopt rules 4322
regulating the advertisements of cultivators, processors, retail 4323
dispensaries, and testing laboratories to prevent advertisements 4324
that are false, misleading, or targeted to minors. 4325

(B) Rules adopted by the department pursuant to division 4326
(A) of this section shall not do any of the following: 4327

(1) Require pre-approval by the department of any 4328
advertisement; 4329

(2) Restrict any cultivator, processor, retail dispensary, 4330
or testing laboratory from engaging in noncommercial speech; 4331

(3) Restrict the ability of a cultivator, processor, 4332
retail dispensary, or testing laboratory from advertising in any 4333
specific medium, including without limitation advertisements 4334
placed on web sites, billboards, apparel, or radio or television 4335
broadcasts, except that certain narrowly tailored time and place 4336
restrictions may be adopted to prevent advertising targeted to 4337
minors; 4338

(4) Restrict the ability of a cultivator, processor, 4339
retail dispensary, or testing laboratory from marketing, 4340

distributing, offering, selling, licensing, or causing to be 4341
marketed, distributed, offered, sold, or licensed, any apparel 4342
or other merchandise related to the sale of marijuana, except 4343
the department may restrict the sale of such apparel or 4344
merchandise to a minor; 4345

(5) Restrict the ability of a cultivator, processor, 4346
retail dispensary, or testing laboratory from utilizing an 4347
advertisement that includes marijuana leaves or slang terms that 4348
refer to marijuana or marijuana strains; 4349

(6) Restrict the ability of a cultivator, processor, 4350
retail dispensary, or testing laboratory from making any 4351
statement, design, representation, picture, or illustration that 4352
is related to the efficacy of marijuana to treat any of the 4353
qualifying conditions identified in section 3796.01 of the 4354
Revised Code; 4355

(7) Restrict the ability of a cultivator, processor, 4356
retail dispensary, or testing laboratory from engaging directly 4357
with consumers, registered patients, or user-generated content 4358
or reviews. 4359

Sec. 3796.35. (A) No person, including a retail dispensary 4360
of marijuana and its agents, employees, and representatives, 4361
shall do any of the following: 4362

(1) Recklessly give, sell, or otherwise distribute 4363
marijuana or paraphernalia to any person under twenty-one years 4364
of age; 4365

(2) Recklessly give away, sell, or distribute marijuana or 4366
paraphernalia in any place that does not have posted in a 4367
conspicuous place a legibly printed sign in letters at least 4368
one-half inch high stating that giving, selling, or otherwise 4369

distributing marijuana to a person under twenty-one years of age 4370
is prohibited by law unless the person is a registered patient 4371
under Chapter 3796. of the Revised Code; 4372

(3) Knowingly furnish any false information regarding the 4373
name, age, or other identification of any person under twenty- 4374
one years of age with purpose to obtain marijuana for that 4375
person; 4376

(4) Recklessly give, sell, or otherwise distribute 4377
marijuana over the internet or through another remote method 4378
without age verification. 4379

(B) It is not a violation of division (A) of this section 4380
for a person to give or otherwise distribute to a person under 4381
twenty-one years of age marijuana if the person under twenty-one 4382
years of age is a registered patient under this chapter. 4383

(C) No person who is eighteen years of age or older but 4384
younger than twenty-one years of age shall knowingly furnish 4385
false information concerning that person's name, age, or other 4386
identification for the purpose of obtaining marijuana products. 4387

Sec. 3796.99. (A) (1) Whoever violates division (A) of 4388
section 3796.35 of the Revised Code is guilty of a misdemeanor 4389
of the fourth degree. If the offender previously has been 4390
convicted of a violation of that division, the violation is a 4391
misdemeanor of the third degree. 4392

(2) Any marijuana that is given, sold, or otherwise 4393
distributed to a person under twenty-one years of age in 4394
violation of division (A) of section 3796.35 of the Revised Code 4395
and that is used, possessed, purchased, or received by a person 4396
under twenty-one years of age is subject to seizure and 4397
forfeiture as contraband under Chapter 2981. of the Revised 4398

Code. 4399

(B) Whoever violates division (C) of section 3796.35 of 4400
the Revised Code is guilty of a misdemeanor of the fourth 4401
degree. If the offender previously has been convicted of or 4402
pleaded guilty to a violation of that division, the violation is 4403
a misdemeanor of the third degree. 4404

Sec. 4123.34. It shall be the duty of the bureau of 4405
workers' compensation board of directors and the administrator 4406
of workers' compensation to safeguard and maintain the solvency 4407
of the state insurance fund and all other funds specified in 4408
this chapter and Chapters 4121., 4127., and 4131. of the Revised 4409
Code. The administrator, in the exercise of the powers and 4410
discretion conferred upon the administrator in section 4123.29 4411
of the Revised Code, shall fix and maintain, with the advice and 4412
consent of the board, for each class of occupation or industry, 4413
the lowest possible rates of premium consistent with the 4414
maintenance of a solvent state insurance fund and the creation 4415
and maintenance of a reasonable surplus, after the payment of 4416
legitimate claims for injury, occupational disease, and death 4417
that the administrator authorizes to be paid from the state 4418
insurance fund for the benefit of injured, diseased, and the 4419
dependents of killed employees. In establishing rates, the 4420
administrator shall take into account the necessity of ensuring 4421
sufficient money is set aside in the premium payment security 4422
fund to cover any defaults in premium obligations. The 4423
administrator shall observe all of the following requirements in 4424
fixing the rates of premium for the risks of occupations or 4425
industries: 4426

(A) The administrator shall keep an accurate account of 4427
the money paid in premiums by each of the several classes of 4428

occupations or industries, and the losses on account of 4429
injuries, occupational disease, and death of employees thereof, 4430
and also keep an account of the money received from each 4431
individual employer and the amount of losses incurred against 4432
the state insurance fund on account of injuries, occupational 4433
disease, and death of the employees of the employer. 4434

(B) A portion of the money paid into the state insurance 4435
fund shall be set aside for the creation of a surplus fund 4436
account within the state insurance fund. Any references in this 4437
chapter or in Chapter 4121., 4125., 4127., or 4131. of the 4438
Revised Code to the surplus fund, the surplus created in this 4439
division, the statutory surplus fund, or the statutory surplus 4440
of the state insurance fund are hereby deemed to be references 4441
to the surplus fund account. The administrator may transfer the 4442
portion of the state insurance fund to the surplus fund account 4443
as the administrator determines is necessary to satisfy the 4444
needs of the surplus fund account and to guarantee the solvency 4445
of the state insurance fund and the surplus fund account. In 4446
addition to all statutory authority under this chapter and 4447
Chapter 4121. of the Revised Code, the administrator has 4448
discretionary and contingency authority to make charges to the 4449
surplus fund account. The administrator shall account for all 4450
charges, whether statutory, discretionary, or contingency, that 4451
the administrator may make to the surplus fund account. A 4452
revision of basic rates shall be made annually on the first day 4453
of July. 4454

For policy years commencing prior to July 1, 2016, 4455
revisions of basic rates for private employers shall be in 4456
accordance with the oldest four of the last five calendar years 4457
of the combined accident and occupational disease experience of 4458
the administrator in the administration of this chapter, as 4459

shown by the accounts kept as provided in this section. For a 4460
policy year commencing on or after July 1, 2016, revisions of 4461
basic rates for private employers shall be in accordance with 4462
the oldest four of the last five policy years combined accident 4463
and occupational disease experience of the administrator in the 4464
administration of this chapter, as shown by the accounts kept as 4465
provided in this section. 4466

Revisions of basic rates for public employers shall be in 4467
accordance with the oldest four of the last five policy years of 4468
the combined accident and occupational disease experience of the 4469
administrator in the administration of this chapter, as shown by 4470
the accounts kept as provided in this section. 4471

In revising basic rates, the administrator shall exclude 4472
the experience of employers that are no longer active if the 4473
administrator determines that the inclusion of those employers 4474
would have a significant negative impact on the remainder of the 4475
employers in a particular manual classification. The 4476
administrator shall adopt rules, with the advice and consent of 4477
the board, governing rate revisions, the object of which shall 4478
be to make an equitable distribution of losses among the several 4479
classes of occupation or industry, which rules shall be general 4480
in their application. 4481

(C) The administrator may apply that form of rating system 4482
that the administrator finds is best calculated to merit rate or 4483
individually rate the risk more equitably, predicated upon the 4484
basis of its individual industrial accident and occupational 4485
disease experience, and may encourage and stimulate accident 4486
prevention. The administrator shall develop fixed and equitable 4487
rules controlling the rating system, which rules shall conserve 4488
to each risk the basic principles of workers' compensation 4489

insurance. 4490

(D) The administrator, from the money paid into the state 4491
insurance fund, shall set aside into an account of the state 4492
insurance fund titled a premium payment security fund sufficient 4493
money to pay for any premiums due from an employer and 4494
uncollected. 4495

The use of the moneys held by the premium payment security 4496
fund account is restricted to reimbursement to the state 4497
insurance fund of premiums due and uncollected. 4498

(E) The administrator may grant discounts on premium rates 4499
for employers who meet either of the following requirements: 4500

(1) Have not incurred a compensable injury for one year or 4501
more and who maintain an employee safety committee or similar 4502
organization or make periodic safety inspections of the 4503
workplace. 4504

(2) Successfully complete a loss prevention program 4505
prescribed by the superintendent of the division of safety and 4506
hygiene and conducted by the division or by any other person 4507
approved by the superintendent. 4508

(F) (1) In determining the premium rates for the 4509
construction industry the administrator shall calculate the 4510
employers' premiums based upon the actual remuneration 4511
construction industry employees receive from construction 4512
industry employers, provided that the amount of remuneration the 4513
administrator uses in calculating the premiums shall not exceed 4514
an average weekly wage equal to one hundred fifty per cent of 4515
the statewide average weekly wage as defined in division (C) of 4516
section 4123.62 of the Revised Code. 4517

(2) Division (F) (1) of this section shall not be construed 4518

as affecting the manner in which benefits to a claimant are 4519
awarded under this chapter. 4520

(3) As used in division (F) of this section, "construction 4521
industry" includes any activity performed in connection with the 4522
erection, alteration, repair, replacement, renovation, 4523
installation, or demolition of any building, structure, highway, 4524
or bridge. 4525

(G) The administrator shall not ~~place~~ do either of the 4526
following: 4527

(1) Place a limit on the length of time that an employer 4528
may participate in the bureau of workers' compensation drug free 4529
workplace and workplace safety programs; 4530

(2) Require an employer, as a condition of granting 4531
rebates or discounts on premium rates to an employer that 4532
participates in the bureau of workers' compensation drug free 4533
workplace or workplace safety programs, to require the 4534
employer's employees to submit to a test to determine whether 4535
marijuana is present in an employee's system. 4536

Sec. 4510.17. (A) The registrar of motor vehicles shall 4537
impose a class D suspension of the person's driver's license, 4538
commercial driver's license, temporary instruction permit, 4539
probationary license, or nonresident operating privilege for the 4540
period of time specified in division (B) (4) of section 4510.02 4541
of the Revised Code on any person who is a resident of this 4542
state and is convicted of or pleads guilty to a violation of a 4543
statute of any other state or any federal statute that is 4544
substantially similar to section 2925.02, 2925.03, 2925.04, 4545
2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.14, 4546
~~2925.141,~~ 2925.22, 2925.23, 2925.31, 2925.32, 2925.36, or 4547

2925.37 of the Revised Code. Upon receipt of a report from a 4548
court, court clerk, or other official of any other state or from 4549
any federal authority that a resident of this state was 4550
convicted of or pleaded guilty to an offense described in this 4551
division, the registrar shall send a notice by regular first 4552
class mail to the person, at the person's last known address as 4553
shown in the records of the bureau of motor vehicles, informing 4554
the person of the suspension, that the suspension will take 4555
effect twenty-one days from the date of the notice, and that, if 4556
the person wishes to appeal the suspension or denial, the person 4557
must file a notice of appeal within twenty-one days of the date 4558
of the notice requesting a hearing on the matter. If the person 4559
requests a hearing, the registrar shall hold the hearing not 4560
more than forty days after receipt by the registrar of the 4561
notice of appeal. The filing of a notice of appeal does not stay 4562
the operation of the suspension that must be imposed pursuant to 4563
this division. The scope of the hearing shall be limited to 4564
whether the person actually was convicted of or pleaded guilty 4565
to the offense for which the suspension is to be imposed. 4566

The suspension the registrar is required to impose under 4567
this division shall end either on the last day of the class D 4568
suspension period or of the suspension of the person's 4569
nonresident operating privilege imposed by the state or federal 4570
court, whichever is earlier. 4571

The registrar shall subscribe to or otherwise participate 4572
in any information system or register, or enter into reciprocal 4573
and mutual agreements with other states and federal authorities, 4574
in order to facilitate the exchange of information with other 4575
states and the United States government regarding persons who 4576
plead guilty to or are convicted of offenses described in this 4577
division and therefore are subject to the suspension or denial 4578

described in this division. 4579

(B) The registrar shall impose a class D suspension of the 4580
person's driver's license, commercial driver's license, 4581
temporary instruction permit, probationary license, or 4582
nonresident operating privilege for the period of time specified 4583
in division (B)(4) of section 4510.02 of the Revised Code on any 4584
person who is a resident of this state and is convicted of or 4585
pleads guilty to a violation of a statute of any other state or 4586
a municipal ordinance of a municipal corporation located in any 4587
other state that is substantially similar to section 4511.19 of 4588
the Revised Code. Upon receipt of a report from another state 4589
made pursuant to section 4510.61 of the Revised Code indicating 4590
that a resident of this state was convicted of or pleaded guilty 4591
to an offense described in this division, the registrar shall 4592
send a notice by regular first class mail to the person, at the 4593
person's last known address as shown in the records of the 4594
bureau of motor vehicles, informing the person of the 4595
suspension, that the suspension or denial will take effect 4596
twenty-one days from the date of the notice, and that, if the 4597
person wishes to appeal the suspension, the person must file a 4598
notice of appeal within twenty-one days of the date of the 4599
notice requesting a hearing on the matter. If the person 4600
requests a hearing, the registrar shall hold the hearing not 4601
more than forty days after receipt by the registrar of the 4602
notice of appeal. The filing of a notice of appeal does not stay 4603
the operation of the suspension that must be imposed pursuant to 4604
this division. The scope of the hearing shall be limited to 4605
whether the person actually was convicted of or pleaded guilty 4606
to the offense for which the suspension is to be imposed. 4607

The suspension the registrar is required to impose under 4608
this division shall end either on the last day of the class D 4609

suspension period or of the suspension of the person's 4610
nonresident operating privilege imposed by the state or federal 4611
court, whichever is earlier. 4612

(C) The registrar shall impose a class D suspension of the 4613
child's driver's license, commercial driver's license, temporary 4614
instruction permit, or nonresident operating privilege for the 4615
period of time specified in division (B) (4) of section 4510.02 4616
of the Revised Code on any child who is a resident of this state 4617
and is convicted of or pleads guilty to a violation of a statute 4618
of any other state or any federal statute that is substantially 4619
similar to section 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 4620
2925.06, 2925.11, 2925.12, 2925.13, 2925.14, 2925.141, 2925.22, 4621
2925.23, 2925.31, 2925.32, 2925.36, or 2925.37 of the Revised 4622
Code. Upon receipt of a report from a court, court clerk, or 4623
other official of any other state or from any federal authority 4624
that a child who is a resident of this state was convicted of or 4625
pleaded guilty to an offense described in this division, the 4626
registrar shall send a notice by regular first class mail to the 4627
child, at the child's last known address as shown in the records 4628
of the bureau of motor vehicles, informing the child of the 4629
suspension, that the suspension or denial will take effect 4630
twenty-one days from the date of the notice, and that, if the 4631
child wishes to appeal the suspension, the child must file a 4632
notice of appeal within twenty-one days of the date of the 4633
notice requesting a hearing on the matter. If the child requests 4634
a hearing, the registrar shall hold the hearing not more than 4635
forty days after receipt by the registrar of the notice of 4636
appeal. The filing of a notice of appeal does not stay the 4637
operation of the suspension that must be imposed pursuant to 4638
this division. The scope of the hearing shall be limited to 4639
whether the child actually was convicted of or pleaded guilty to 4640

the offense for which the suspension is to be imposed. 4641

The suspension the registrar is required to impose under 4642
this division shall end either on the last day of the class D 4643
suspension period or of the suspension of the child's 4644
nonresident operating privilege imposed by the state or federal 4645
court, whichever is earlier. If the child is a resident of this 4646
state who is sixteen years of age or older and does not have a 4647
current, valid Ohio driver's or commercial driver's license or 4648
permit, the notice shall inform the child that the child will be 4649
denied issuance of a driver's or commercial driver's license or 4650
permit for six months beginning on the date of the notice. If 4651
the child has not attained the age of sixteen years on the date 4652
of the notice, the notice shall inform the child that the period 4653
of denial of six months shall commence on the date the child 4654
attains the age of sixteen years. 4655

The registrar shall subscribe to or otherwise participate 4656
in any information system or register, or enter into reciprocal 4657
and mutual agreements with other states and federal authorities, 4658
in order to facilitate the exchange of information with other 4659
states and the United States government regarding children who 4660
are residents of this state and plead guilty to or are convicted 4661
of offenses described in this division and therefore are subject 4662
to the suspension or denial described in this division. 4663

(D) The registrar shall impose a class D suspension of the 4664
child's driver's license, commercial driver's license, temporary 4665
instruction permit, probationary license, or nonresident 4666
operating privilege for the period of time specified in division 4667
(B) (4) of section 4510.02 of the Revised Code on any child who 4668
is a resident of this state and is convicted of or pleads guilty 4669
to a violation of a statute of any other state or a municipal 4670

ordinance of a municipal corporation located in any other state 4671
that is substantially similar to section 4511.19 of the Revised 4672
Code. Upon receipt of a report from another state made pursuant 4673
to section 4510.61 of the Revised Code indicating that a child 4674
who is a resident of this state was convicted of or pleaded 4675
guilty to an offense described in this division, the registrar 4676
shall send a notice by regular first class mail to the child, at 4677
the child's last known address as shown in the records of the 4678
bureau of motor vehicles, informing the child of the suspension, 4679
that the suspension will take effect twenty-one days from the 4680
date of the notice, and that, if the child wishes to appeal the 4681
suspension, the child must file a notice of appeal within 4682
twenty-one days of the date of the notice requesting a hearing 4683
on the matter. If the child requests a hearing, the registrar 4684
shall hold the hearing not more than forty days after receipt by 4685
the registrar of the notice of appeal. The filing of a notice of 4686
appeal does not stay the operation of the suspension that must 4687
be imposed pursuant to this division. The scope of the hearing 4688
shall be limited to whether the child actually was convicted of 4689
or pleaded guilty to the offense for which the suspension is to 4690
be imposed. 4691

The suspension the registrar is required to impose under 4692
this division shall end either on the last day of the class D 4693
suspension period or of the suspension of the child's 4694
nonresident operating privilege imposed by the state or federal 4695
court, whichever is earlier. If the child is a resident of this 4696
state who is sixteen years of age or older and does not have a 4697
current, valid Ohio driver's or commercial driver's license or 4698
permit, the notice shall inform the child that the child will be 4699
denied issuance of a driver's or commercial driver's license or 4700
permit for six months beginning on the date of the notice. If 4701

the child has not attained the age of sixteen years on the date 4702
of the notice, the notice shall inform the child that the period 4703
of denial of six months shall commence on the date the child 4704
attains the age of sixteen years. 4705

(E) (1) Any person whose license or permit has been 4706
suspended pursuant to this section may file a petition in the 4707
municipal or county court, or in case the person is under 4708
eighteen years of age, the juvenile court, in whose jurisdiction 4709
the person resides, requesting limited driving privileges and 4710
agreeing to pay the cost of the proceedings. Except as provided 4711
in division (E) (2) or (3) of this section, the judge may grant 4712
the person limited driving privileges during the period during 4713
which the suspension otherwise would be imposed for any of the 4714
purposes set forth in division (A) of section 4510.021 of the 4715
Revised Code. 4716

(2) No judge shall grant limited driving privileges for 4717
employment as a driver of a commercial motor vehicle to any 4718
person who would be disqualified from operating a commercial 4719
motor vehicle under section 4506.16 of the Revised Code if the 4720
violation had occurred in this state. Further, no judge shall 4721
grant limited driving privileges during any of the following 4722
periods of time: 4723

(a) The first fifteen days of a suspension under division 4724
(B) or (D) of this section, if the person has not been convicted 4725
within ten years of the date of the offense giving rise to the 4726
suspension under this section of a violation of any of the 4727
following: 4728

(i) Division (A) of section 4511.19 of the Revised Code, 4729
or a municipal ordinance relating to operating a vehicle while 4730
under the influence of alcohol, a drug of abuse, or alcohol and 4731

a drug of abuse; 4732

(ii) A municipal ordinance relating to operating a motor 4733
vehicle with a prohibited concentration of alcohol, a controlled 4734
substance, or a metabolite of a controlled substance in the 4735
whole blood, blood serum or plasma, breath, or urine; 4736

(iii) Section 2903.04 of the Revised Code in a case in 4737
which the person was subject to the sanctions described in 4738
division (D) of that section; 4739

(iv) Division (A) (1) of section 2903.06 or division (A) (1) 4740
of section 2903.08 of the Revised Code or a municipal ordinance 4741
that is substantially similar to either of those divisions; 4742

(v) Division (A) (2), (3), or (4) of section 2903.06, 4743
division (A) (2) of section 2903.08, or as it existed prior to 4744
March 23, 2000, section 2903.07 of the Revised Code, or a 4745
municipal ordinance that is substantially similar to any of 4746
those divisions or that former section, in a case in which the 4747
jury or judge found that the person was under the influence of 4748
alcohol, a drug of abuse, or alcohol and a drug of abuse. 4749

(b) The first thirty days of a suspension under division 4750
(B) or (D) of this section, if the person has been convicted one 4751
time within ten years of the date of the offense giving rise to 4752
the suspension under this section of any violation identified in 4753
division (E) (1) (a) of this section. 4754

(c) The first one hundred eighty days of a suspension 4755
under division (B) or (D) of this section, if the person has 4756
been convicted two times within ten years of the date of the 4757
offense giving rise to the suspension under this section of any 4758
violation identified in division (E) (1) (a) of this section. 4759

(3) No limited driving privileges may be granted if the 4760

person has been convicted three or more times within five years 4761
of the date of the offense giving rise to a suspension under 4762
division (B) or (D) of this section of any violation identified 4763
in division (E) (1) (a) of this section. 4764

(4) In accordance with section 4510.022 of the Revised 4765
Code, a person may petition for, and a judge may grant, 4766
unlimited driving privileges with a certified ignition interlock 4767
device during the period of suspension imposed under division 4768
(B) or (D) of this section to a person described in division (E) 4769
(2) (a) of this section. 4770

(5) If a person petitions for limited driving privileges 4771
under division (E) (1) of this section or unlimited driving 4772
privileges with a certified ignition interlock device as 4773
provided in division (E) (4) of this section, the registrar shall 4774
be represented by the county prosecutor of the county in which 4775
the person resides if the petition is filed in a juvenile court 4776
or county court, except that if the person resides within a city 4777
or village that is located within the jurisdiction of the county 4778
in which the petition is filed, the city director of law or 4779
village solicitor of that city or village shall represent the 4780
registrar. If the petition is filed in a municipal court, the 4781
registrar shall be represented as provided in section 1901.34 of 4782
the Revised Code. 4783

(6) (a) In issuing an order granting limited driving 4784
privileges under division (E) (1) of this section, the court may 4785
impose any condition it considers reasonable and necessary to 4786
limit the use of a vehicle by the person. The court shall 4787
deliver to the person a copy of the order setting forth the 4788
time, place, and other conditions limiting the person's use of a 4789
motor vehicle. Unless division (E) (6) (b) of this section 4790

applies, the grant of limited driving privileges shall be 4791
conditioned upon the person's having the order in the person's 4792
possession at all times during which the person is operating a 4793
vehicle. 4794

(b) If, under the order, the court requires the use of an 4795
immobilizing or disabling device as a condition of the grant of 4796
limited or unlimited driving privileges, the person shall 4797
present to the registrar or to a deputy registrar the copy of 4798
the order granting limited driving privileges and a certificate 4799
affirming the installation of an immobilizing or disabling 4800
device that is in a form established by the director of public 4801
safety and is signed by the person who installed the device. 4802
Upon presentation of the order and the certificate to the 4803
registrar or a deputy registrar, the registrar or deputy 4804
registrar shall issue to the offender a restricted license, 4805
unless the offender's driver's or commercial driver's license or 4806
permit is suspended under any other provision of law and limited 4807
driving privileges have not been granted with regard to that 4808
suspension. A restricted license issued under this division 4809
shall be identical to an Ohio driver's license, except that it 4810
shall have printed on its face a statement that the offender is 4811
prohibited from operating any motor vehicle that is not equipped 4812
with an immobilizing or disabling device in violation of the 4813
order. 4814

(7) (a) Unless division (E) (7) (b) applies, a person granted 4815
limited driving privileges who operates a vehicle for other than 4816
limited purposes, in violation of any condition imposed by the 4817
court or without having the order in the person's possession, is 4818
guilty of a violation of section 4510.11 of the Revised Code. 4819

(b) No person who has been granted limited or unlimited 4820

driving privileges under division (E) of this section subject to 4821
an immobilizing or disabling device order shall operate a motor 4822
vehicle prior to obtaining a restricted license. Any person who 4823
violates this prohibition is subject to the penalties prescribed 4824
in section 4510.14 of the Revised Code. 4825

(c) The offenses established under division (E) (7) of this 4826
section are strict liability offenses and section 2901.20 of the 4827
Revised Code does not apply. 4828

(F) The provisions of division (A) (8) of section 4510.13 4829
of the Revised Code apply to a person who has been granted 4830
limited or unlimited driving privileges with a certified 4831
ignition interlock device under this section and who either 4832
commits an ignition interlock device violation as defined under 4833
section 4510.46 of the Revised Code or operates a motor vehicle 4834
that is not equipped with a certified ignition interlock device. 4835

(G) Any person whose license or permit has been suspended 4836
under division (A) or (C) of this section may file a petition in 4837
the municipal or county court, or in case the person is under 4838
eighteen years of age, the juvenile court, in whose jurisdiction 4839
the person resides, requesting the termination of the suspension 4840
and agreeing to pay the cost of the proceedings. If the court, 4841
in its discretion, determines that a termination of the 4842
suspension is appropriate, the court shall issue an order to the 4843
registrar to terminate the suspension. Upon receiving such an 4844
order, the registrar shall reinstate the license. 4845

(H) As used in divisions (C) and (D) of this section: 4846

(1) "Child" means a person who is under the age of 4847
eighteen years, except that any person who violates a statute or 4848
ordinance described in division (C) or (D) of this section prior 4849

to attaining eighteen years of age shall be deemed a "child" 4850
irrespective of the person's age at the time the complaint or 4851
other equivalent document is filed in the other state or a 4852
hearing, trial, or other proceeding is held in the other state 4853
on the complaint or other equivalent document, and irrespective 4854
of the person's age when the period of license suspension or 4855
denial prescribed in division (C) or (D) of this section is 4856
imposed. 4857

(2) "Is convicted of or pleads guilty to" means, as it 4858
relates to a child who is a resident of this state, that in a 4859
proceeding conducted in a state or federal court located in 4860
another state for a violation of a statute or ordinance 4861
described in division (C) or (D) of this section, the result of 4862
the proceeding is any of the following: 4863

(a) Under the laws that govern the proceedings of the 4864
court, the child is adjudicated to be or admits to being a 4865
delinquent child or a juvenile traffic offender for a violation 4866
described in division (C) or (D) of this section that would be a 4867
crime if committed by an adult; 4868

(b) Under the laws that govern the proceedings of the 4869
court, the child is convicted of or pleads guilty to a violation 4870
described in division (C) or (D) of this section; 4871

(c) Under the laws that govern the proceedings of the 4872
court, irrespective of the terminology utilized in those laws, 4873
the result of the court's proceedings is the functional 4874
equivalent of division (H) (2) (a) or (b) of this section. 4875

Sec. 4729.24. (A) Subject to division (B) of this section, 4876
in addition to the actions the state board of pharmacy may take 4877
under Chapter 119. of the Revised Code, the board may order the 4878

taking of depositions; examine and copy any books, accounts, 4879
papers, records, documents, and other tangible objects; issue 4880
subpoenas; and compel the attendance of witnesses and production 4881
of books, accounts, papers, records, documents, and other 4882
tangible objects. 4883

On failure of a person to comply with a subpoena issued by 4884
the board and after reasonable notice to that person, the board 4885
may apply to the court of common pleas of Franklin county for an 4886
order compelling the production of persons or records pursuant 4887
to the Ohio Rules of Civil Procedure. 4888

A subpoena issued by the board may be served by a sheriff, 4889
sheriff's deputy, or board employee designated by the board. 4890
Service of a subpoena may be made by delivering a copy of the 4891
subpoena to the person named in the subpoena or by leaving it at 4892
the person's usual place of residence. 4893

(B) A subpoena for patient record information may be 4894
issued only on approval by the board's executive director and 4895
the president or another board member designated by the 4896
president, in consultation with the office of the attorney 4897
general. Before issuing the subpoena, the executive director and 4898
the office of the attorney general shall determine whether 4899
probable cause exists to believe that the complaint filed 4900
alleges, or an investigation has revealed, a violation of this 4901
chapter or Chapters 2925., 3715., or 3719., ~~or 3796.~~ of the 4902
Revised Code or any rule adopted by the board, that the records 4903
sought are relevant to the alleged violation and material to the 4904
investigation, and that the records cover a reasonable period of 4905
time surrounding the alleged violation. 4906

(C) The board may adopt rules in accordance with Chapter 4907
119. of the Revised Code establishing procedures to be followed 4908

in taking the actions authorized by this section, including 4909
procedures regarding payment for and service of subpoenas. 4910

Sec. 4729.75. The state board of pharmacy may establish 4911
and maintain a drug database. The board shall use the drug 4912
database to monitor the misuse and diversion of ~~the following:~~ 4913
controlled substances, as defined in section 3719.01 of the 4914
Revised Code; ~~medical marijuana, as authorized under Chapter~~ 4915
~~3796. of the Revised Code,~~ and other dangerous drugs the board 4916
includes in the database pursuant to rules adopted under section 4917
4729.84 of the Revised Code. 4918

The board also shall use the drug database to monitor 4919
naltrexone. 4920

In establishing and maintaining the database, the board 4921
shall electronically collect information pursuant to sections 4922
4729.77, ~~4729.771,~~ 4729.772, 4729.78, and 4729.79 of the Revised 4923
Code and shall disseminate information as authorized or required 4924
by sections 4729.80 and 4729.81 of the Revised Code. The board's 4925
collection and dissemination of information shall be conducted 4926
in accordance with rules adopted under section 4729.84 of the 4927
Revised Code. 4928

Sec. 4729.772. (A) If the state board of pharmacy 4929
establishes and maintains a drug database pursuant to section 4930
4729.75 of the Revised Code, in addition to the information 4931
required to be submitted under sections 4729.77, ~~4729.771,~~ 4932
4729.78, and 4729.79 of the Revised Code, the board may accept 4933
information from other sources, including other state agencies, 4934
to the extent the information is related to monitoring the 4935
misuse and diversion of drugs as set forth in section 4729.75 of 4936
the Revised Code. 4937

(B) Any information submitted pursuant to this section 4938
shall be transmitted as specified by the board in rules adopted 4939
under section 4729.84 of the Revised Code. 4940

Sec. 4729.80. (A) If the state board of pharmacy 4941
establishes and maintains a drug database pursuant to section 4942
4729.75 of the Revised Code, the board is authorized or required 4943
to provide information from the database only as follows: 4944

(1) On receipt of a request from a designated 4945
representative of a government entity responsible for the 4946
licensure, regulation, or discipline of health care 4947
professionals with authority to prescribe, administer, or 4948
dispense drugs, the board may provide to the representative 4949
information from the database relating to the professional who 4950
is the subject of an active investigation being conducted by the 4951
government entity or relating to a professional who is acting as 4952
an expert witness for the government entity in such an 4953
investigation. 4954

(2) On receipt of a request from a federal officer, or a 4955
state or local officer of this or any other state, whose duties 4956
include enforcing laws relating to drugs, the board shall 4957
provide to the officer information from the database relating to 4958
the person who is the subject of an active investigation of a 4959
drug abuse offense, as defined in section 2925.01 of the Revised 4960
Code, being conducted by the officer's employing government 4961
entity. 4962

(3) Pursuant to a subpoena issued by a grand jury, the 4963
board shall provide to the grand jury information from the 4964
database relating to the person who is the subject of an 4965
investigation being conducted by the grand jury. 4966

(4) Pursuant to a subpoena, search warrant, or court order 4967
in connection with the investigation or prosecution of a 4968
possible or alleged criminal offense, the board shall provide 4969
information from the database as necessary to comply with the 4970
subpoena, search warrant, or court order. 4971

(5) On receipt of a request from a prescriber or the 4972
prescriber's delegate approved by the board, the board shall 4973
provide to the prescriber a report of information from the 4974
database relating to a patient who is either a current patient 4975
of the prescriber or a potential patient of the prescriber based 4976
on a referral of the patient to the prescriber, if all of the 4977
following conditions are met: 4978

(a) The prescriber certifies in a form specified by the 4979
board that it is for the purpose of providing medical treatment 4980
to the patient who is the subject of the request; 4981

(b) The prescriber has not been denied access to the 4982
database by the board. 4983

(6) On receipt of a request from a pharmacist or the 4984
pharmacist's delegate approved by the board, the board shall 4985
provide to the pharmacist information from the database relating 4986
to a current patient of the pharmacist, if the pharmacist 4987
certifies in a form specified by the board that it is for the 4988
purpose of the pharmacist's practice of pharmacy involving the 4989
patient who is the subject of the request and the pharmacist has 4990
not been denied access to the database by the board. 4991

(7) On receipt of a request from an individual seeking the 4992
individual's own database information in accordance with the 4993
procedure established in rules adopted under section 4729.84 of 4994
the Revised Code, the board may provide to the individual the 4995

individual's own prescription history. 4996

(8) On receipt of a request from a medical director or a 4997
pharmacy director of a managed care organization that has 4998
entered into a contract with the department of medicaid under 4999
section 5167.10 of the Revised Code and a data security 5000
agreement with the board required by section 5167.14 of the 5001
Revised Code, the board shall provide to the medical director or 5002
the pharmacy director information from the database relating to 5003
a medicaid recipient enrolled in the managed care organization, 5004
including information in the database related to prescriptions 5005
for the recipient that were not covered or reimbursed under a 5006
program administered by the department of medicaid. 5007

(9) On receipt of a request from the medicaid director, 5008
the board shall provide to the director information from the 5009
database relating to a recipient of a program administered by 5010
the department of medicaid, including information in the 5011
database related to prescriptions for the recipient that were 5012
not covered or paid by a program administered by the department. 5013

(10) On receipt of a request from a medical director of a 5014
managed care organization that has entered into a contract with 5015
the administrator of workers' compensation under division (B) (4) 5016
of section 4121.44 of the Revised Code and a data security 5017
agreement with the board required by section 4121.447 of the 5018
Revised Code, the board shall provide to the medical director 5019
information from the database relating to a claimant under 5020
Chapter 4121., 4123., 4127., or 4131. of the Revised Code 5021
assigned to the managed care organization, including information 5022
in the database related to prescriptions for the claimant that 5023
were not covered or reimbursed under Chapter 4121., 4123., 5024
4127., or 4131. of the Revised Code, if the administrator of 5025

workers' compensation confirms, upon request from the board, 5026
that the claimant is assigned to the managed care organization. 5027

(11) On receipt of a request from the administrator of 5028
workers' compensation, the board shall provide to the 5029
administrator information from the database relating to a 5030
claimant under Chapter 4121., 4123., 4127., or 4131. of the 5031
Revised Code, including information in the database related to 5032
prescriptions for the claimant that were not covered or 5033
reimbursed under Chapter 4121., 4123., 4127., or 4131. of the 5034
Revised Code. 5035

(12) On receipt of a request from a prescriber or the 5036
prescriber's delegate approved by the board, the board shall 5037
provide to the prescriber information from the database relating 5038
to a patient's mother, if the prescriber certifies in a form 5039
specified by the board that it is for the purpose of providing 5040
medical treatment to a newborn or infant patient diagnosed as 5041
opioid dependent and the prescriber has not been denied access 5042
to the database by the board. 5043

(13) On receipt of a request from the director of health, 5044
the board shall provide to the director information from the 5045
database relating to the duties of the director or the 5046
department of health in implementing the Ohio violent death 5047
reporting system established under section 3701.93 of the 5048
Revised Code. 5049

(14) On receipt of a request from a requestor described in 5050
division (A)(1), (2), (5), or (6) of this section who is from or 5051
participating with another state's prescription monitoring 5052
program, the board may provide to the requestor information from 5053
the database, but only if there is a written agreement under 5054
which the information is to be used and disseminated according 5055

to the laws of this state. 5056

~~(15) On receipt of a request from a delegate of a retail dispensary licensed under Chapter 3796. of the Revised Code who is approved by the board to serve as the dispensary's delegate, the board shall provide to the delegate a report of information from the database pertaining only to a patient's use of medical marijuana, if both of the following conditions are met:~~ 5057
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~~(a) The delegate certifies in a form specified by the board that it is for the purpose of dispensing medical marijuana for use in accordance with Chapter 3796. of the Revised Code.~~ 5063
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~~(b) The retail dispensary or delegate has not been denied access to the database by the board.~~ 5066
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~~(16)~~ On receipt of a request from a judge of a program certified by the Ohio supreme court as a specialized docket program for drugs, the board shall provide to the judge, or an employee of the program who is designated by the judge to receive the information, information from the database that relates specifically to a current or prospective program participant. 5068
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~~(17)~~(16) On receipt of a request from a coroner, deputy coroner, or coroner's delegate approved by the board, the board shall provide to the requestor information from the database relating to a deceased person about whom the coroner is conducting or has conducted an autopsy or investigation. 5075
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~~(18)~~(17) On receipt of a request from a prescriber, the board may provide to the prescriber a summary of the prescriber's prescribing record if such a record is created by the board. Information in the summary is subject to the confidentiality requirements of this chapter. 5080
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~~(19)(a)~~ (18)(a) On receipt of a request from a pharmacy's responsible person, the board may provide to the responsible person a summary of the pharmacy's dispensing record if such a record is created by the board. Information in the summary is subject to the confidentiality requirements of this chapter.

(b) As used in division ~~(A)(19)(a)~~ (A)(18)(a) of this section, "responsible person" has the same meaning as in rules adopted by the board under section 4729.26 of the Revised Code.

~~(20)~~ (19) The board may provide information from the database without request to a prescriber or pharmacist who is authorized to use the database pursuant to this chapter.

~~(21)(a)~~ (20)(a) On receipt of a request from a prescriber or pharmacist, or the prescriber's or pharmacist's delegate, who is a designated representative of a peer review committee, the board shall provide to the committee information from the database relating to a prescriber who is subject to the committee's evaluation, supervision, or discipline if the information is to be used for one of those purposes. The board shall provide only information that it determines, in accordance with rules adopted under section 4729.84 of the Revised Code, is appropriate to be provided to the committee.

(b) As used in division ~~(A)(21)(a)~~ (A)(20)(a) of this section, "peer review committee" has the same meaning as in section 2305.25 of the Revised Code, except that it includes only a peer review committee of a hospital or a peer review committee of a nonprofit health care corporation that is a member of the hospital or of which the hospital is a member.

~~(22)~~ (21) On receipt of a request from a requestor described in division (A)(5) or (6) of this section who is from

or participating with a prescription monitoring program that is 5114
operated by a federal agency and approved by the board, the 5115
board may provide to the requestor information from the 5116
database, but only if there is a written agreement under which 5117
the information is to be used and disseminated according to the 5118
laws of this state. 5119

~~(23)~~ (22) Any personal health information submitted to the 5120
board pursuant to section 4729.772 of the Revised Code may be 5121
provided by the board only as authorized by the submitter of the 5122
information and in accordance with rules adopted under section 5123
4729.84 of the Revised Code. 5124

~~(24)~~ (23) On receipt of a request from a person described 5125
in division (A) (5), (6), or ~~(17)~~ (16) of this section who is 5126
participating in a drug overdose fatality review committee 5127
described in section 307.631 of the Revised Code, the board may 5128
provide to the requestor information from the database, but only 5129
if there is a written agreement under which the information is 5130
to be used and disseminated according to the laws of this state. 5131

~~(25)~~ (24) On receipt of a request from a person described 5132
in division (A) (5), (6), or ~~(17)~~ (16) of this section who is 5133
participating in a suicide fatality review committee described 5134
in section 307.641 of the Revised Code, the board may provide to 5135
the requestor information from the database, but only if there 5136
is a written agreement under which the information is to be used 5137
and disseminated according to the laws of this state. 5138

(B) The state board of pharmacy shall maintain a record of 5139
each individual or entity that requests information from the 5140
database pursuant to this section. In accordance with rules 5141
adopted under section 4729.84 of the Revised Code, the board may 5142
use the records to document and report statistics and law 5143

enforcement outcomes. 5144

The board may provide records of an individual's requests 5145
for database information only to the following: 5146

(1) A designated representative of a government entity 5147
that is responsible for the licensure, regulation, or discipline 5148
of health care professionals with authority to prescribe, 5149
administer, or dispense drugs who is involved in an active 5150
criminal or disciplinary investigation being conducted by the 5151
government entity of the individual who submitted the requests 5152
for database information; 5153

(2) A federal officer, or a state or local officer of this 5154
or any other state, whose duties include enforcing laws relating 5155
to drugs and who is involved in an active investigation being 5156
conducted by the officer's employing government entity of the 5157
individual who submitted the requests for database information; 5158

(3) A designated representative of the department of 5159
medicaid regarding a prescriber who is treating or has treated a 5160
recipient of a program administered by the department and who 5161
submitted the requests for database information. 5162

(C) Information contained in the database and any 5163
information obtained from it is confidential and is not a public 5164
record. Information contained in the records of requests for 5165
information from the database is confidential and is not a 5166
public record. Information contained in the database that does 5167
not identify a person, including any licensee or registrant of 5168
the board or other entity, may be released in summary, 5169
statistical, or aggregate form. 5170

(D) A pharmacist or prescriber shall not be held liable in 5171
damages to any person in any civil action for injury, death, or 5172

loss to person or property on the basis that the pharmacist or 5173
prescriber did or did not seek or obtain information from the 5174
database. 5175

Sec. 4729.84. For purposes of establishing and maintaining 5176
a drug database pursuant to section 4729.75 of the Revised Code, 5177
the state board of pharmacy shall adopt rules in accordance with 5178
Chapter 119. of the Revised Code to carry out and enforce 5179
sections 4729.75 to 4729.83 of the Revised Code. The rules shall 5180
specify all of the following: 5181

(A) A means of identifying each patient, each terminal 5182
distributor of dangerous drugs, and each purchase at wholesale 5183
of dangerous drugs, ~~and each retail dispensary licensed under~~ 5184
~~Chapter 3796. of the Revised Code~~ about which information is 5185
entered into the drug database; 5186

(B) Requirements for the transmission of information from 5187
terminal distributors of dangerous drugs, manufacturers of 5188
dangerous drugs, outsourcing facilities, repackagers of 5189
dangerous drugs, wholesale distributors of dangerous drugs, and 5190
prescribers, ~~and retail dispensaries;~~ 5191

(C) An electronic format for the submission of information 5192
from persons identified in division (B) of this section; 5193

(D) A procedure whereby a person unable to submit 5194
information electronically may obtain a waiver to submit 5195
information in another format; 5196

(E) A procedure whereby the board may grant a request from 5197
a law enforcement agency or a government entity responsible for 5198
the licensure, regulation, or discipline of licensed health 5199
professionals authorized to prescribe drugs that information 5200
that has been stored for three years be retained when the 5201

information pertains to an open investigation being conducted by 5202
the agency or entity; 5203

(F) A procedure whereby a person identified in division 5204
(B) of this section may apply for an extension to the time by 5205
which information must be transmitted to the board; 5206

(G) A procedure whereby a person or government entity to 5207
which the board is authorized to provide information may submit 5208
a request to the board for the information and the board may 5209
verify the identity of the requestor; 5210

(H) Standards for determining what information is 5211
appropriate to be provided under division ~~(A) (21)~~ (A) (20) of 5212
section 4729.80 of the Revised Code; 5213

(I) A procedure whereby the board can use the database 5214
request records required by division (B) of section 4729.80 of 5215
the Revised Code to document and report statistics and law 5216
enforcement outcomes; 5217

(J) A procedure whereby an individual may request the 5218
individual's own database information and the board may verify 5219
the identity of the requestor; 5220

(K) A reasonable fee that the board may charge under 5221
section 4729.83 of the Revised Code for providing an individual 5222
with the individual's own database information pursuant to 5223
section 4729.80 of the Revised Code; 5224

(L) The other specific dangerous drugs that, in addition 5225
to controlled substances, must be included in the database; 5226

(M) The types of pharmacies licensed as terminal 5227
distributors of dangerous drugs that are required to submit 5228
prescription information to the board pursuant to section 5229

4729.77 of the Revised Code; 5230

(N) Additional data fields, recognized by the American 5231
society for automation in pharmacy, that licensed terminal 5232
distributors of dangerous drugs must submit to the board 5233
pursuant to section 4729.77 of the Revised Code; 5234

~~(O) The information regarding medical marijuana dispensed~~ 5235
~~to a patient that a retail dispensary is required to submit to~~ 5236
~~the board pursuant to section 4729.771 of the Revised Code;~~ 5237

~~(P) Requirements for the transmission of information~~ 5238
pursuant to section 4729.772 of the Revised Code and 5239
requirements for the release of such information by the board. 5240

Sec. 4729.85. If the state board of pharmacy establishes 5241
and maintains a drug database pursuant to section 4729.75 of the 5242
Revised Code, the board shall prepare reports regarding the 5243
database and present or submit them in accordance with both of 5244
the following: 5245

(A) The board shall present a biennial report to the 5246
standing committees of the house of representatives and the 5247
senate that are primarily responsible for considering health and 5248
human services issues. Each report shall include all of the 5249
following: 5250

(1) The cost to the state of establishing and maintaining 5251
the database; 5252

(2) Information from the board, terminal distributors of 5253
dangerous drugs, and prescribers, ~~and retail dispensaries~~ 5254
~~licensed under Chapter 3796. of the Revised Code~~ regarding the 5255
board's effectiveness in providing information from the 5256
database; 5257

(3) The board's timeliness in transmitting information from the database.	5258 5259
(B) The board shall submit a semiannual report to the governor, the president of the senate, the speaker of the house of representatives, the attorney general, the chairpersons of the standing committees of the house of representatives and the senate that are primarily responsible for considering health and human services issues, the department of public safety, the state dental board, the board of nursing, the state vision professionals board, the state medical board, and the state veterinary medical licensing board. The state board of pharmacy shall make the report available to the public on its internet web site. Each report submitted shall include all of the following for the period covered by the report:	5260 5261 5262 5263 5264 5265 5266 5267 5268 5269 5270 5271
(1) An aggregate of the information submitted to the board under section 4729.77 of the Revised Code regarding prescriptions for controlled substances containing opioids, including all of the following:	5272 5273 5274 5275
(a) The number of prescribers who issued the prescriptions;	5276 5277
(b) The number of patients to whom the controlled substances were dispensed;	5278 5279
(c) The average quantity of the controlled substances dispensed per prescription;	5280 5281
(d) The average daily morphine equivalent dose of the controlled substances dispensed per prescription.	5282 5283
(2) An aggregate of the information submitted to the board under section 4729.79 of the Revised Code regarding controlled substances containing opioids that have been personally	5284 5285 5286

furnished to a patient by a prescriber, other than a prescriber who is a veterinarian, including all of the following:	5287 5288
(a) The number of prescribers who personally furnished the controlled substances;	5289 5290
(b) The number of patients to whom the controlled substances were personally furnished;	5291 5292
(c) The average quantity of the controlled substances that were furnished at one time;	5293 5294
(d) The average daily morphine equivalent dose of the controlled substances that were furnished at one time.	5295 5296
(3) An aggregate of the information submitted to the board under section 4729.771 of the Revised Code regarding medical marijuana;	5297 5298 5299
(4) An aggregate of the information submitted to the board under sections 4729.77 and 4729.79 of the Revised Code regarding naltrexone, including all of the following:	5300 5301 5302
(a) The number of prescribers who issued the prescriptions for or personally furnished the drug;	5303 5304
(b) The number of patients to whom the drug was dispensed or personally furnished;	5305 5306
(c) The average quantity of the drug dispensed per prescription or furnished at one time.	5307 5308
Sec. 4729.86. If the state board of pharmacy establishes and maintains a drug database pursuant to section 4729.75 of the Revised Code, all of the following apply:	5309 5310 5311
(A) (1) No person identified in divisions (A) (1) to (13), (15) to (25) <u>(24)</u> , or (B) of section 4729.80 of the Revised Code	5312 5313

shall disseminate any written or electronic information the 5314
person receives from the drug database or otherwise provide 5315
another person access to the information that the person 5316
receives from the database, except as follows: 5317

(a) When necessary in the investigation or prosecution of 5318
a possible or alleged criminal offense; 5319

(b) When a person provides the information to the 5320
prescriber, or pharmacist, ~~or retail dispensary licensed under~~ 5321
~~Chapter 3796. of the Revised Code~~ for whom the person is 5322
approved by the board to serve as a delegate of the prescriber, ~~or~~ 5323
or pharmacist, ~~or retail dispensary~~ for purposes of requesting 5324
and receiving information from the drug database under division 5325
(A) (5), or (6), ~~or (15)~~ of section 4729.80 of the Revised Code; 5326

(c) When a prescriber, pharmacist, or retail dispensary 5327
licensed under Chapter 3796. of the Revised Code provides the 5328
information to a person who is approved by the board to serve as 5329
such a delegate of the prescriber, or pharmacist, ~~or retail-~~ 5330
~~dispensary;~~ 5331

(d) When a prescriber or pharmacist includes the 5332
information in a medical record, as defined in section 3701.74 5333
of the Revised Code. 5334

(2) No person shall provide false information to the state 5335
board of pharmacy with the intent to obtain or alter information 5336
contained in the drug database. 5337

(3) No person shall obtain drug database information by 5338
any means except as provided under section 4729.80 or 4729.81 of 5339
the Revised Code. 5340

(B) A person shall not use information obtained pursuant 5341
to division (A) of section 4729.80 of the Revised Code as 5342

evidence in any civil or administrative proceeding. 5343

(C) (1) Except as provided in division (C) (2) of this 5344
section, after providing notice and affording an opportunity for 5345
a hearing in accordance with Chapter 119. of the Revised Code, 5346
the board may restrict a person from obtaining further 5347
information from the drug database if any of the following is 5348
the case: 5349

(a) The person violates division (A) (1), (2), or (3) of 5350
this section; 5351

(b) The person is a requestor identified in division (A) 5352
(14) or ~~(22)~~ (21) of section 4729.80 of the Revised Code and the 5353
board determines that the person's actions in another state 5354
would have constituted a violation of division (A) (1), (2), or 5355
(3) of this section; 5356

(c) The person fails to comply with division (B) of this 5357
section, regardless of the jurisdiction in which the failure to 5358
comply occurred; 5359

(d) The person creates, by clear and convincing evidence, 5360
a threat to the security of information contained in the 5361
database. 5362

(2) If the board determines that allegations regarding a 5363
person's actions warrant restricting the person from obtaining 5364
further information from the drug database without a prior 5365
hearing, the board may summarily impose the restriction. A 5366
telephone conference call may be used for reviewing the 5367
allegations and taking a vote on the summary restriction. The 5368
summary restriction shall remain in effect, unless removed by 5369
the board, until the board's final adjudication order becomes 5370
effective. 5371

(3) The board shall determine the extent to which the person is restricted from obtaining further information from the database.

Sec. 4731.30. (A) As used in this section and ~~sections~~ section 4731.301 and 4731.302 of the Revised Code, "medical marijuana," ~~"drug database,"~~ "physician," and "qualifying medical condition" have the same meanings as in section 3796.01 of the Revised Code.

(B) (1) Except as provided in division (B) (4) of this section, a physician seeking to recommend treatment with medical marijuana shall apply to the state medical board for a certificate to recommend. An application shall be submitted in the manner established in rules adopted under section 4731.301 of the Revised Code.

(2) The board shall grant a certificate to recommend if both of the following conditions are met:

(a) The application is complete and meets the requirements established in rules.

(b) The applicant demonstrates that the applicant does not have an ownership or investment interest in or compensation arrangement with an entity licensed under Chapter 3796. of the Revised Code or an applicant for licensure.

(3) A certificate to recommend expires according to the renewal schedule established in rules adopted under section 4731.301 of the Revised Code and may be renewed in accordance with the procedures established in those rules.

(4) This section does not apply to a physician who recommends treatment with marijuana or a drug derived from marijuana under any of the following that is approved by an

investigational review board or equivalent entity, the United States food and drug administration, or the national institutes of health or one of its cooperative groups or centers under the United States department of health and human services:

(a) A research protocol;

(b) A clinical trial;

(c) An investigational new drug application;

(d) An expanded access submission.

(C) (1) A physician who holds a certificate to recommend may recommend that a patient be treated with medical marijuana if ~~all both~~ of the following conditions are met:

(a) The patient has been diagnosed with a qualifying medical condition;

(b) A bona fide physician-patient relationship has been established through all of the following:

(i) An examination of the patient by the physician either in person or through the use of telehealth services in accordance with section 4743.09 of the Revised Code;

(ii) A review of the patient's medical history by the physician;

(iii) An expectation of providing care and receiving care on an ongoing basis.

~~(e) The physician has requested, or a physician delegate approved by the state board of pharmacy has requested, from the drug database a report of information related to the patient that covers at least the twelve months immediately preceding the date of the report, and the physician has reviewed the report.~~

(2) In the case of a patient who is a minor, the physician 5428
may recommend treatment with medical marijuana only after 5429
obtaining the consent of the patient's parent or other person 5430
responsible for providing consent to treatment. 5431

(D) (1) When issuing a written recommendation to a patient, 5432
the physician shall specify any information required in rules 5433
adopted by the board under section 4731.301 of the Revised Code. 5434

(2) A written recommendation issued to a patient under 5435
this section is valid for a period of not more than ninety days. 5436
The physician may renew the recommendation for not more than 5437
three additional periods of not more than ninety days each. 5438
Thereafter, the physician may issue another recommendation to 5439
the patient only upon an examination of the patient as described 5440
in division (C) (1) (b) (i) of this section. 5441

(E) Annually, the physician shall submit to the state 5442
medical board a report that describes the physician's 5443
observations regarding the effectiveness of medical marijuana in 5444
treating the physician's patients during the year covered by the 5445
report. When submitting reports, a physician shall not include 5446
any information that identifies or would tend to identify any 5447
specific patient. 5448

(F) Each physician who holds a certificate to recommend 5449
shall complete annually at least two hours of continuing medical 5450
education in medical marijuana approved by the state medical 5451
board. 5452

(G) A physician shall not do any of the following: 5453

(1) Personally furnish or otherwise dispense medical 5454
marijuana; 5455

(2) Issue a recommendation for a family member or the 5456

physician's self. 5457

(H) A physician is immune from civil liability, is not 5458
subject to professional disciplinary action by the state medical 5459
board or state board of pharmacy, and is not subject to criminal 5460
prosecution for any of the following actions: 5461

(1) Advising a patient, patient representative, or 5462
caregiver about the benefits and risks of medical marijuana to 5463
treat a qualifying medical condition; 5464

(2) Recommending that a patient use medical marijuana to 5465
treat or alleviate the condition; 5466

(3) Monitoring a patient's treatment with medical 5467
marijuana. 5468

Sec. 4731.301. (A) Not later than one year after ~~the~~ 5469
~~effective date of this section~~ September 8, 2016, the state 5470
medical board shall adopt rules establishing all of the 5471
following: 5472

(1) The procedures when applying for a certificate to 5473
recommend under section 4731.301 of the Revised Code; 5474

(2) The conditions that must be met to be eligible for a 5475
certificate to recommend; 5476

(3) The schedule and procedures for renewing a certificate 5477
to recommend; 5478

(4) The reasons for which a certificate may be suspended 5479
or revoked; 5480

(5) The standards under which a certificate suspension may 5481
be lifted; 5482

(6) The minimal standards of care when recommending 5483

treatment with medical marijuana. 5484

The rules shall be adopted in accordance with Chapter 119. 5485
of the Revised Code. 5486

(B) In addition to the rules described in division (A) of 5487
this section, the board may adopt any other rules it considers 5488
necessary to implement ~~sections~~ section 4731.30 and 4731.302 of 5489
the Revised Code which may include rules specifying the 5490
information that must be included in a written recommendation 5491
issued under section 4731.30 of the Revised Code. The rules 5492
shall be adopted in accordance with Chapter 119. of the Revised 5493
Code. 5494

(C) The board shall approve one or more continuing medical 5495
education courses of study, which may be a course or courses 5496
certified by the Ohio state medical association or Ohio 5497
osteopathic association, that assist physicians holding 5498
certificates to recommend in both of the following: 5499

(1) Diagnosing qualifying medical conditions as defined in 5500
section 3796.01 of the Revised Code; 5501

(2) Treating qualifying medical conditions with medical 5502
marijuana. 5503

Sec. 4743.11. (A) As used in this section: 5504

(1) "License" means an authorization evidenced by a 5505
license, certificate, registration, permit, card, or other 5506
authority that is issued or conferred by a licensing authority 5507
to an individual by which the individual has or claims the 5508
privilege to engage in a profession, occupation, or occupational 5509
activity over which the licensing authority has jurisdiction. 5510

(2) "Licensing authority" means a state agency that issues 5511

licenses under Title XLVII or any other provision of the Revised Code to practice an occupation or profession. 5512
5513

(3) "State agency" has the same meaning as in section 1.60 of the Revised Code. 5514
5515

(B) Notwithstanding any provision of the Revised Code to the contrary, but subject to division (C) of this section, no licensing authority shall do either of the following: 5516
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(1) Refuse to issue an initial license to an individual based solely or in part on the individual's legal use of marijuana; 5519
5520
5521

(2) Discipline a license holder for obtaining, possessing, or using marijuana as permitted by Chapter 3796. of the Revised Code. 5522
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5524

(C) If the law governing the applicable profession, occupation, or occupational activity requires or permits a licensing authority to do so, a licensing authority may refuse to issue a license to an individual or discipline a license holder for either of the following reasons: 5525
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5527
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(1) Practicing the applicable profession, occupation, or occupational activity while under the influence of marijuana; 5530
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(2) Impairment of the individual's or license holder's ability to practice the profession, occupation, or occupational activity because of marijuana use. 5532
5533
5534

Sec. 4776.01. As used in this chapter: 5535

(A) "License" means an authorization evidenced by a license, certificate, registration, permit, card, or other authority that is issued or conferred by a licensing agency to a licensee or to an applicant for an initial license by which the 5536
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licensee or initial license applicant has or claims the 5540
privilege to engage in a profession, occupation, or occupational 5541
activity, or, except in the case of the state dental board, to 5542
have control of and operate certain specific equipment, 5543
machinery, or premises, over which the licensing agency has 5544
jurisdiction. 5545

(B) Except as provided in section 4776.20 of the Revised 5546
Code, "licensee" means the person to whom the license is issued 5547
by a licensing agency. "Licensee" includes a person who, for 5548
purposes of section 3796.13 of the Revised Code, has complied 5549
with sections 4776.01 to 4776.04 of the Revised Code and has 5550
been determined by the department of commerce ~~or state board of~~ 5551
~~pharmacy, as the applicable licensing agency,~~ to meet the 5552
requirements for employment. 5553

(C) Except as provided in section 4776.20 of the Revised 5554
Code, "licensing agency" means any of the following: 5555

(1) The board authorized by Chapters 4701., 4717., 4725., 5556
4729., 4730., 4731., 4732., 4734., 4740., 4741., 4747., 4751., 5557
4753., 4755., 4757., 4759., 4760., 4761., 4762., 4774., 4778., 5558
4779., and 4783. of the Revised Code to issue a license to 5559
engage in a specific profession, occupation, or occupational 5560
activity, or to have charge of and operate certain specific 5561
equipment, machinery, or premises. 5562

(2) The state dental board, relative to its authority to 5563
issue a license pursuant to section 4715.12, 4715.16, 4715.21, 5564
or 4715.27 of the Revised Code; 5565

(3) The department of commerce ~~or state board of pharmacy,~~ 5566
relative to its authority under Chapter 3796. of the Revised 5567
Code and any rules adopted under that chapter with respect to a 5568

person who is subject to section 3796.13 of the Revised Code; 5569

(4) The director of agriculture, relative to the 5570
director's authority to issue licenses under Chapter 928. of the 5571
Revised Code. 5572

(D) "Applicant for an initial license" includes persons 5573
seeking a license for the first time and persons seeking a 5574
license by reciprocity, endorsement, or similar manner of a 5575
license issued in another state. "Applicant for an initial 5576
license" also includes a person who, for purposes of section 5577
3796.13 of the Revised Code, is required to comply with sections 5578
4776.01 to 4776.04 of the Revised Code. 5579

(E) "Applicant for a restored license" includes persons 5580
seeking restoration of a license under section 4730.14, 4730.28, 5581
4731.222, 4731.281, 4759.062, 4759.063, 4760.06, 4760.061, 5582
4761.06, 4761.061, 4762.06, 4762.061, 4774.06, 4774.061, 5583
4778.07, or 4778.071 of the Revised Code. "Applicant for a 5584
restored license" does not include a person seeking restoration 5585
of a license under section 4751.33 of the Revised Code. 5586

(F) "Criminal records check" has the same meaning as in 5587
section 109.572 of the Revised Code. 5588

Sec. 5739.01. As used in this chapter: 5589

(A) "Person" includes individuals, receivers, assignees, 5590
trustees in bankruptcy, estates, firms, partnerships, 5591
associations, joint-stock companies, joint ventures, clubs, 5592
societies, corporations, the state and its political 5593
subdivisions, and combinations of individuals of any form. 5594

(B) "Sale" and "selling" include all of the following 5595
transactions for a consideration in any manner, whether 5596
absolutely or conditionally, whether for a price or rental, in 5597

money or by exchange, and by any means whatsoever:	5598
(1) All transactions by which title or possession, or	5599
both, of tangible personal property, is or is to be transferred,	5600
or a license to use or consume tangible personal property is or	5601
is to be granted;	5602
(2) All transactions by which lodging by a hotel is or is	5603
to be furnished to transient guests;	5604
(3) All transactions by which:	5605
(a) An item of tangible personal property is or is to be	5606
repaired, except property, the purchase of which would not be	5607
subject to the tax imposed by section 5739.02 of the Revised	5608
Code;	5609
(b) An item of tangible personal property is or is to be	5610
installed, except property, the purchase of which would not be	5611
subject to the tax imposed by section 5739.02 of the Revised	5612
Code or property that is or is to be incorporated into and will	5613
become a part of a production, transmission, transportation, or	5614
distribution system for the delivery of a public utility	5615
service;	5616
(c) The service of washing, cleaning, waxing, polishing,	5617
or painting a motor vehicle is or is to be furnished;	5618
(d) Laundry and dry cleaning services are or are to be	5619
provided;	5620
(e) Automatic data processing, computer services, or	5621
electronic information services are or are to be provided for	5622
use in business when the true object of the transaction is the	5623
receipt by the consumer of automatic data processing, computer	5624
services, or electronic information services rather than the	5625

receipt of personal or professional services to which automatic 5626
data processing, computer services, or electronic information 5627
services are incidental or supplemental. Notwithstanding any 5628
other provision of this chapter, such transactions that occur 5629
between members of an affiliated group are not sales. An 5630
"affiliated group" means two or more persons related in such a 5631
way that one person owns or controls the business operation of 5632
another member of the group. In the case of corporations with 5633
stock, one corporation owns or controls another if it owns more 5634
than fifty per cent of the other corporation's common stock with 5635
voting rights. 5636

(f) Telecommunications service, including prepaid calling 5637
service, prepaid wireless calling service, or ancillary service, 5638
is or is to be provided, but not including coin-operated 5639
telephone service; 5640

(g) Landscaping and lawn care service is or is to be 5641
provided; 5642

(h) Private investigation and security service is or is to 5643
be provided; 5644

(i) Information services or tangible personal property is 5645
provided or ordered by means of a nine hundred telephone call; 5646

(j) Building maintenance and janitorial service is or is 5647
to be provided; 5648

(k) Exterminating service is or is to be provided; 5649

(l) Physical fitness facility service is or is to be 5650
provided; 5651

(m) Recreation and sports club service is or is to be 5652
provided; 5653

(n) Satellite broadcasting service is or is to be 5654
provided; 5655

(o) Personal care service is or is to be provided to an 5656
individual. As used in this division, "personal care service" 5657
includes skin care, the application of cosmetics, manicuring, 5658
pedicuring, hair removal, tattooing, body piercing, tanning, 5659
massage, and other similar services. "Personal care service" 5660
does not include a service provided by or on the order of a 5661
licensed physician or licensed chiropractor, or the cutting, 5662
coloring, or styling of an individual's hair. 5663

(p) The transportation of persons by motor vehicle or 5664
aircraft is or is to be provided, when the transportation is 5665
entirely within this state, except for transportation provided 5666
by an ambulance service, by a transit bus, as defined in section 5667
5735.01 of the Revised Code, and transportation provided by a 5668
citizen of the United States holding a certificate of public 5669
convenience and necessity issued under 49 U.S.C. 41102; 5670

(q) Motor vehicle towing service is or is to be provided. 5671
As used in this division, "motor vehicle towing service" means 5672
the towing or conveyance of a wrecked, disabled, or illegally 5673
parked motor vehicle. 5674

(r) Snow removal service is or is to be provided. As used 5675
in this division, "snow removal service" means the removal of 5676
snow by any mechanized means, but does not include the providing 5677
of such service by a person that has less than five thousand 5678
dollars in sales of such service during the calendar year. 5679

(s) Electronic publishing service is or is to be provided 5680
to a consumer for use in business, except that such transactions 5681
occurring between members of an affiliated group, as defined in 5682

division (B) (3) (e) of this section, are not sales. 5683

(4) All transactions by which printed, imprinted, 5684
overprinted, lithographic, multilithic, blueprinted, 5685
photostatic, or other productions or reproductions of written or 5686
graphic matter are or are to be furnished or transferred; 5687

(5) The production or fabrication of tangible personal 5688
property for a consideration for consumers who furnish either 5689
directly or indirectly the materials used in the production of 5690
fabrication work; and include the furnishing, preparing, or 5691
serving for a consideration of any tangible personal property 5692
consumed on the premises of the person furnishing, preparing, or 5693
serving such tangible personal property. Except as provided in 5694
section 5739.03 of the Revised Code, a construction contract 5695
pursuant to which tangible personal property is or is to be 5696
incorporated into a structure or improvement on and becoming a 5697
part of real property is not a sale of such tangible personal 5698
property. The construction contractor is the consumer of such 5699
tangible personal property, provided that the sale and 5700
installation of carpeting, the sale and installation of 5701
agricultural land tile, the sale and erection or installation of 5702
portable grain bins, or the provision of landscaping and lawn 5703
care service and the transfer of property as part of such 5704
service is never a construction contract. 5705

As used in division (B) (5) of this section: 5706

(a) "Agricultural land tile" means fired clay or concrete 5707
tile, or flexible or rigid perforated plastic pipe or tubing, 5708
incorporated or to be incorporated into a subsurface drainage 5709
system appurtenant to land used or to be used primarily in 5710
production by farming, agriculture, horticulture, or 5711
floriculture. The term does not include such materials when they 5712

are or are to be incorporated into a drainage system appurtenant 5713
to a building or structure even if the building or structure is 5714
used or to be used in such production. 5715

(b) "Portable grain bin" means a structure that is used or 5716
to be used by a person engaged in farming or agriculture to 5717
shelter the person's grain and that is designed to be 5718
disassembled without significant damage to its component parts. 5719

(6) All transactions in which all of the shares of stock 5720
of a closely held corporation are transferred, or an ownership 5721
interest in a pass-through entity, as defined in section 5733.04 5722
of the Revised Code, is transferred, if the corporation or pass- 5723
through entity is not engaging in business and its entire assets 5724
consist of boats, planes, motor vehicles, or other tangible 5725
personal property operated primarily for the use and enjoyment 5726
of the shareholders or owners; 5727

(7) All transactions in which a warranty, maintenance or 5728
service contract, or similar agreement by which the vendor of 5729
the warranty, contract, or agreement agrees to repair or 5730
maintain the tangible personal property of the consumer is or is 5731
to be provided; 5732

(8) The transfer of copyrighted motion picture films used 5733
solely for advertising purposes, except that the transfer of 5734
such films for exhibition purposes is not a sale; 5735

(9) All transactions by which tangible personal property 5736
is or is to be stored, except such property that the consumer of 5737
the storage holds for sale in the regular course of business; 5738

(10) All transactions in which "guaranteed auto 5739
protection" is provided whereby a person promises to pay to the 5740
consumer the difference between the amount the consumer receives 5741

from motor vehicle insurance and the amount the consumer owes to 5742
a person holding title to or a lien on the consumer's motor 5743
vehicle in the event the consumer's motor vehicle suffers a 5744
total loss under the terms of the motor vehicle insurance policy 5745
or is stolen and not recovered, if the protection and its price 5746
are included in the purchase or lease agreement; 5747

(11) (a) Except as provided in division (B) (11) (b) of this 5748
section, all transactions by which health care services are paid 5749
for, reimbursed, provided, delivered, arranged for, or otherwise 5750
made available by a medicaid health insuring corporation 5751
pursuant to the corporation's contract with the state. 5752

(b) If the centers for medicare and medicaid services of 5753
the United States department of health and human services 5754
determines that the taxation of transactions described in 5755
division (B) (11) (a) of this section constitutes an impermissible 5756
health care-related tax under the "Social Security Act," section 5757
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, 5758
the medicaid director shall notify the tax commissioner of that 5759
determination. Beginning with the first day of the month 5760
following that notification, the transactions described in 5761
division (B) (11) (a) of this section are not sales for the 5762
purposes of this chapter or Chapter 5741. of the Revised Code. 5763
The tax commissioner shall order that the collection of taxes 5764
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 5765
5741.021, 5741.022, and 5741.023 of the Revised Code shall cease 5766
for transactions occurring on or after that date. 5767

(12) All transactions by which a specified digital product 5768
is provided for permanent use or less than permanent use, 5769
regardless of whether continued payment is required. 5770

Except as provided in this section, "sale" and "selling" 5771

do not include transfers of interest in leased property where 5772
the original lessee and the terms of the original lease 5773
agreement remain unchanged, or professional, insurance, or 5774
personal service transactions that involve the transfer of 5775
tangible personal property as an inconsequential element, for 5776
which no separate charges are made. 5777

(C) "Vendor" means the person providing the service or by 5778
whom the transfer effected or license given by a sale is or is 5779
to be made or given and, for sales described in division (B) (3) 5780
(i) of this section, the telecommunications service vendor that 5781
provides the nine hundred telephone service; if two or more 5782
persons are engaged in business at the same place of business 5783
under a single trade name in which all collections on account of 5784
sales by each are made, such persons shall constitute a single 5785
vendor. 5786

Physicians, dentists, hospitals, and veterinarians who are 5787
engaged in selling tangible personal property as received from 5788
others, such as eyeglasses, mouthwashes, dentifrices, or similar 5789
articles, are vendors. Veterinarians who are engaged in 5790
transferring to others for a consideration drugs, the dispensing 5791
of which does not require an order of a licensed veterinarian or 5792
physician under federal law, are vendors. 5793

The operator of any peer-to-peer car sharing program shall 5794
be considered to be the vendor. 5795

(D) (1) "Consumer" means the person for whom the service is 5796
provided, to whom the transfer effected or license given by a 5797
sale is or is to be made or given, to whom the service described 5798
in division (B) (3) (f) or (i) of this section is charged, or to 5799
whom the admission is granted. 5800

(2) Physicians, dentists, hospitals, and blood banks 5801
operated by nonprofit institutions and persons licensed to 5802
practice veterinary medicine, surgery, and dentistry are 5803
consumers of all tangible personal property and services 5804
purchased by them in connection with the practice of medicine, 5805
dentistry, the rendition of hospital or blood bank service, or 5806
the practice of veterinary medicine, surgery, and dentistry. In 5807
addition to being consumers of drugs administered by them or by 5808
their assistants according to their direction, veterinarians 5809
also are consumers of drugs that under federal law may be 5810
dispensed only by or upon the order of a licensed veterinarian 5811
or physician, when transferred by them to others for a 5812
consideration to provide treatment to animals as directed by the 5813
veterinarian. 5814

(3) A person who performs a facility management, or 5815
similar service contract for a contractee is a consumer of all 5816
tangible personal property and services purchased for use in 5817
connection with the performance of such contract, regardless of 5818
whether title to any such property vests in the contractee. The 5819
purchase of such property and services is not subject to the 5820
exception for resale under division (E) of this section. 5821

(4) (a) In the case of a person who purchases printed 5822
matter for the purpose of distributing it or having it 5823
distributed to the public or to a designated segment of the 5824
public, free of charge, that person is the consumer of that 5825
printed matter, and the purchase of that printed matter for that 5826
purpose is a sale. 5827

(b) In the case of a person who produces, rather than 5828
purchases, printed matter for the purpose of distributing it or 5829
having it distributed to the public or to a designated segment 5830

of the public, free of charge, that person is the consumer of 5831
all tangible personal property and services purchased for use or 5832
consumption in the production of that printed matter. That 5833
person is not entitled to claim exemption under division (B) (42) 5834
(f) of section 5739.02 of the Revised Code for any material 5835
incorporated into the printed matter or any equipment, supplies, 5836
or services primarily used to produce the printed matter. 5837

(c) The distribution of printed matter to the public or to 5838
a designated segment of the public, free of charge, is not a 5839
sale to the members of the public to whom the printed matter is 5840
distributed or to any persons who purchase space in the printed 5841
matter for advertising or other purposes. 5842

(5) A person who makes sales of any of the services listed 5843
in division (B) (3) of this section is the consumer of any 5844
tangible personal property used in performing the service. The 5845
purchase of that property is not subject to the resale exception 5846
under division (E) of this section. 5847

(6) A person who engages in highway transportation for 5848
hire is the consumer of all packaging materials purchased by 5849
that person and used in performing the service, except for 5850
packaging materials sold by such person in a transaction 5851
separate from the service. 5852

(7) In the case of a transaction for health care services 5853
under division (B) (11) of this section, a medicaid health 5854
insuring corporation is the consumer of such services. The 5855
purchase of such services by a medicaid health insuring 5856
corporation is not subject to the exception for resale under 5857
division (E) of this section or to the exemptions provided under 5858
divisions (B) (12), (18), (19), and (22) of section 5739.02 of 5859
the Revised Code. 5860

(E) "Retail sale" and "sales at retail" include all sales, 5861
except those in which the purpose of the consumer is to resell 5862
the thing transferred or benefit of the service provided, by a 5863
person engaging in business, in the form in which the same is, 5864
or is to be, received by the person. 5865

(F) "Business" includes any activity engaged in by any 5866
person with the object of gain, benefit, or advantage, either 5867
direct or indirect. "Business" does not include the activity of 5868
a person in managing and investing the person's own funds. 5869

(G) "Engaging in business" means commencing, conducting, 5870
or continuing in business, and liquidating a business when the 5871
liquidator thereof holds itself out to the public as conducting 5872
such business. Making a casual sale is not engaging in business. 5873

(H) (1) (a) "Price," except as provided in divisions (H) (2), 5874
(3), and (4) of this section, means the total amount of 5875
consideration, including cash, credit, property, and services, 5876
for which tangible personal property or services are sold, 5877
leased, or rented, valued in money, whether received in money or 5878
otherwise, without any deduction for any of the following: 5879

(i) The vendor's cost of the property sold; 5880

(ii) The cost of materials used, labor or service costs, 5881
interest, losses, all costs of transportation to the vendor, all 5882
taxes imposed on the vendor, including the tax imposed under 5883
Chapter 5751. of the Revised Code, and any other expense of the 5884
vendor; 5885

(iii) Charges by the vendor for any services necessary to 5886
complete the sale; 5887

(iv) Delivery charges. As used in this division, "delivery 5888
charges" means charges by the vendor for preparation and 5889

delivery to a location designated by the consumer of tangible 5890
personal property or a service, including transportation, 5891
shipping, postage, handling, crating, and packing. 5892

(v) Installation charges; 5893

(vi) Credit for any trade-in. 5894

(b) "Price" includes consideration received by the vendor 5895
from a third party, if the vendor actually receives the 5896
consideration from a party other than the consumer, and the 5897
consideration is directly related to a price reduction or 5898
discount on the sale; the vendor has an obligation to pass the 5899
price reduction or discount through to the consumer; the amount 5900
of the consideration attributable to the sale is fixed and 5901
determinable by the vendor at the time of the sale of the item 5902
to the consumer; and one of the following criteria is met: 5903

(i) The consumer presents a coupon, certificate, or other 5904
document to the vendor to claim a price reduction or discount 5905
where the coupon, certificate, or document is authorized, 5906
distributed, or granted by a third party with the understanding 5907
that the third party will reimburse any vendor to whom the 5908
coupon, certificate, or document is presented; 5909

(ii) The consumer identifies the consumer's self to the 5910
seller as a member of a group or organization entitled to a 5911
price reduction or discount. A preferred customer card that is 5912
available to any patron does not constitute membership in such a 5913
group or organization. 5914

(iii) The price reduction or discount is identified as a 5915
third party price reduction or discount on the invoice received 5916
by the consumer, or on a coupon, certificate, or other document 5917
presented by the consumer. 5918

(c) "Price" does not include any of the following:	5919
(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a vendor and taken by a consumer on a sale;	5920 5921 5922
(ii) Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;	5923 5924 5925 5926
(iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer. For the purpose of this division, the tax imposed under Chapter 5751. of the Revised Code is not a tax directly on the consumer, even if the tax or a portion thereof is separately stated.	5927 5928 5929 5930 5931 5932
(iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of this section, any discount allowed by an automobile manufacturer to its employee, or to the employee of a supplier, on the purchase of a new motor vehicle from a new motor vehicle dealer in this state.	5933 5934 5935 5936 5937
(v) The dollar value of a gift card that is not sold by a vendor or purchased by a consumer and that is redeemed by the consumer in purchasing tangible personal property or services if the vendor is not reimbursed and does not receive compensation from a third party to cover all or part of the gift card value. For the purposes of this division, a gift card is not sold by a vendor or purchased by a consumer if it is distributed pursuant to an awards, loyalty, or promotional program. Past and present purchases of tangible personal property or services by the consumer shall not be treated as consideration exchanged for a	5938 5939 5940 5941 5942 5943 5944 5945 5946 5947

gift card. 5948

(2) In the case of a sale of any new motor vehicle by a 5949
new motor vehicle dealer, as defined in section 4517.01 of the 5950
Revised Code, in which another motor vehicle is accepted by the 5951
dealer as part of the consideration received, "price" has the 5952
same meaning as in division (H)(1) of this section, reduced by 5953
the credit afforded the consumer by the dealer for the motor 5954
vehicle received in trade. 5955

(3) In the case of a sale of any watercraft or outboard 5956
motor by a watercraft dealer licensed in accordance with section 5957
1547.543 of the Revised Code, in which another watercraft, 5958
watercraft and trailer, or outboard motor is accepted by the 5959
dealer as part of the consideration received, "price" has the 5960
same meaning as in division (H)(1) of this section, reduced by 5961
the credit afforded the consumer by the dealer for the 5962
watercraft, watercraft and trailer, or outboard motor received 5963
in trade. As used in this division, "watercraft" includes an 5964
outdrive unit attached to the watercraft. 5965

(4) In the case of transactions for health care services 5966
under division (B)(11) of this section, "price" means the amount 5967
of managed care premiums received each month by a medicaid 5968
health insuring corporation. 5969

(I) "Receipts" means the total amount of the prices of the 5970
sales of vendors, provided that the dollar value of gift cards 5971
distributed pursuant to an awards, loyalty, or promotional 5972
program, and cash discounts allowed and taken on sales at the 5973
time they are consummated are not included, minus any amount 5974
deducted as a bad debt pursuant to section 5739.121 of the 5975
Revised Code. "Receipts" does not include the sale price of 5976
property returned or services rejected by consumers when the 5977

full sale price and tax are refunded either in cash or by 5978
credit. 5979

(J) "Place of business" means any location at which a 5980
person engages in business. 5981

(K) "Premises" includes any real property or portion 5982
thereof upon which any person engages in selling tangible 5983
personal property at retail or making retail sales and also 5984
includes any real property or portion thereof designated for, or 5985
devoted to, use in conjunction with the business engaged in by 5986
such person. 5987

(L) "Casual sale" means a sale of an item of tangible 5988
personal property that was obtained by the person making the 5989
sale, through purchase or otherwise, for the person's own use 5990
and was previously subject to any state's taxing jurisdiction on 5991
its sale or use, and includes such items acquired for the 5992
seller's use that are sold by an auctioneer employed directly by 5993
the person for such purpose, provided the location of such sales 5994
is not the auctioneer's permanent place of business. As used in 5995
this division, "permanent place of business" includes any 5996
location where such auctioneer has conducted more than two 5997
auctions during the year. 5998

(M) "Hotel" means every establishment kept, used, 5999
maintained, advertised, or held out to the public to be a place 6000
where sleeping accommodations are offered to guests, in which 6001
five or more rooms are used for the accommodation of such 6002
guests, whether the rooms are in one or several structures, 6003
except as otherwise provided in section 5739.091 of the Revised 6004
Code. 6005

(N) "Transient guests" means persons occupying a room or 6006

rooms for sleeping accommodations for less than thirty 6007
consecutive days. 6008

(O) "Making retail sales" means the effecting of 6009
transactions wherein one party is obligated to pay the price and 6010
the other party is obligated to provide a service or to transfer 6011
title to or possession of the item sold. "Making retail sales" 6012
does not include the preliminary acts of promoting or soliciting 6013
the retail sales, other than the distribution of printed matter 6014
which displays or describes and prices the item offered for 6015
sale, nor does it include delivery of a predetermined quantity 6016
of tangible personal property or transportation of property or 6017
personnel to or from a place where a service is performed. 6018

(P) "Used directly in the rendition of a public utility 6019
service" means that property that is to be incorporated into and 6020
will become a part of the consumer's production, transmission, 6021
transportation, or distribution system and that retains its 6022
classification as tangible personal property after such 6023
incorporation; fuel or power used in the production, 6024
transmission, transportation, or distribution system; and 6025
tangible personal property used in the repair and maintenance of 6026
the production, transmission, transportation, or distribution 6027
system, including only such motor vehicles as are specially 6028
designed and equipped for such use. Tangible personal property 6029
and services used primarily in providing highway transportation 6030
for hire are not used directly in the rendition of a public 6031
utility service. In this definition, "public utility" includes a 6032
citizen of the United States holding, and required to hold, a 6033
certificate of public convenience and necessity issued under 49 6034
U.S.C. 41102. 6035

(Q) "Refining" means removing or separating a desirable 6036

product from raw or contaminated materials by distillation or 6037
physical, mechanical, or chemical processes. 6038

(R) "Assembly" and "assembling" mean attaching or fitting 6039
together parts to form a product, but do not include packaging a 6040
product. 6041

(S) "Manufacturing operation" means a process in which 6042
materials are changed, converted, or transformed into a 6043
different state or form from which they previously existed and 6044
includes refining materials, assembling parts, and preparing raw 6045
materials and parts by mixing, measuring, blending, or otherwise 6046
committing such materials or parts to the manufacturing process. 6047
"Manufacturing operation" does not include packaging. 6048

(T) "Fiscal officer" means, with respect to a regional 6049
transit authority, the secretary-treasurer thereof, and with 6050
respect to a county that is a transit authority, the fiscal 6051
officer of the county transit board if one is appointed pursuant 6052
to section 306.03 of the Revised Code or the county auditor if 6053
the board of county commissioners operates the county transit 6054
system. 6055

(U) "Transit authority" means a regional transit authority 6056
created pursuant to section 306.31 of the Revised Code or a 6057
county in which a county transit system is created pursuant to 6058
section 306.01 of the Revised Code. For the purposes of this 6059
chapter, a transit authority must extend to at least the entire 6060
area of a single county. A transit authority that includes 6061
territory in more than one county must include all the area of 6062
the most populous county that is a part of such transit 6063
authority. County population shall be measured by the most 6064
recent census taken by the United States census bureau. 6065

(V) "Legislative authority" means, with respect to a regional transit authority, the board of trustees thereof, and with respect to a county that is a transit authority, the board of county commissioners.

(W) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit authority as they from time to time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(X) "Providing a service" means providing or furnishing anything described in division (B) (3) of this section for consideration.

(Y) (1) (a) "Automatic data processing" means processing of others' data, including keypunching or similar data entry services together with verification thereof, or providing access to computer equipment for the purpose of processing data.

(b) "Computer services" means providing services consisting of specifying computer hardware configurations and evaluating technical processing characteristics, computer programming, and training of computer programmers and operators, provided in conjunction with and to support the sale, lease, or operation of taxable computer equipment or systems.

(c) "Electronic information services" means providing access to computer equipment by means of telecommunications equipment for the purpose of either of the following:

(i) Examining or acquiring data stored in or accessible to

the computer equipment; 6095

(ii) Placing data into the computer equipment to be 6096
retrieved by designated recipients with access to the computer 6097
equipment. 6098

"Electronic information services" does not include 6099
electronic publishing. 6100

(d) "Automatic data processing, computer services, or 6101
electronic information services" shall not include personal or 6102
professional services. 6103

(2) As used in divisions (B) (3) (e) and (Y) (1) of this 6104
section, "personal and professional services" means all services 6105
other than automatic data processing, computer services, or 6106
electronic information services, including but not limited to: 6107

(a) Accounting and legal services such as advice on tax 6108
matters, asset management, budgetary matters, quality control, 6109
information security, and auditing and any other situation where 6110
the service provider receives data or information and studies, 6111
alters, analyzes, interprets, or adjusts such material; 6112

(b) Analyzing business policies and procedures; 6113

(c) Identifying management information needs; 6114

(d) Feasibility studies, including economic and technical 6115
analysis of existing or potential computer hardware or software 6116
needs and alternatives; 6117

(e) Designing policies, procedures, and custom software 6118
for collecting business information, and determining how data 6119
should be summarized, sequenced, formatted, processed, 6120
controlled, and reported so that it will be meaningful to 6121
management; 6122

(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;	6123 6124 6125
(g) Testing of business procedures;	6126
(h) Training personnel in business procedure applications;	6127
(i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;	6128 6129 6130 6131 6132 6133 6134
(j) Providing debt collection services by any oral, written, graphic, or electronic means;	6135 6136
(k) Providing digital advertising services;	6137
(l) Providing services to electronically file any federal, state, or local individual income tax return, report, or other related document or schedule with a federal, state, or local government entity or to electronically remit a payment of any such individual income tax to such an entity. For the purpose of this division, "individual income tax" does not include federal, state, or local taxes withheld by an employer from an employee's compensation.	6138 6139 6140 6141 6142 6143 6144 6145
The services listed in divisions (Y) (2) (a) to (l) of this section are not automatic data processing or computer services.	6146 6147
(Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following:	6148 6149 6150

(1) The holder of a permit or certificate issued by this state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare;

(2) A person who engages in the transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare but who could not have engaged in such transportation on December 11, 1985, unless the person was the holder of a permit or certificate of the types described in division (Z) (1) of this section;

(3) A person who leases a motor vehicle to and operates it for a person described by division (Z) (1) or (2) of this section.

(AA) (1) "Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. "Telecommunications service" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether the service is referred to as voice-over internet protocol service or is classified by the federal communications commission as enhanced or value-added. "Telecommunications service" does not include any of the following:

(a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a consumer where

the consumer's primary purpose for the underlying transaction is 6181
the processed data or information; 6182

(b) Installation or maintenance of wiring or equipment on 6183
a customer's premises; 6184

(c) Tangible personal property; 6185

(d) Advertising, including directory advertising; 6186

(e) Billing and collection services provided to third 6187
parties; 6188

(f) Internet access service; 6189

(g) Radio and television audio and video programming 6190
services, regardless of the medium, including the furnishing of 6191
transmission, conveyance, and routing of such services by the 6192
programming service provider. Radio and television audio and 6193
video programming services include, but are not limited to, 6194
cable service, as defined in 47 U.S.C. 522(6), and audio and 6195
video programming services delivered by commercial mobile radio 6196
service providers, as defined in 47 C.F.R. 20.3; 6197

(h) Ancillary service; 6198

(i) Digital products delivered electronically, including 6199
software, music, video, reading materials, or ring tones. 6200

(2) "Ancillary service" means a service that is associated 6201
with or incidental to the provision of telecommunications 6202
service, including conference bridging service, detailed 6203
telecommunications billing service, directory assistance, 6204
vertical service, and voice mail service. As used in this 6205
division: 6206

(a) "Conference bridging service" means an ancillary 6207

service that links two or more participants of an audio or video conference call, including providing a telephone number. 6208
6209
"Conference bridging service" does not include 6210
telecommunications services used to reach the conference bridge. 6211

(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement. 6212
6213
6214

(c) "Directory assistance" means an ancillary service of providing telephone number or address information. 6215
6216

(d) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and manage multiple calls and call connections, including conference bridging service. 6217
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(e) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. "Voice mail service" does not include any vertical services that the customer may be required to have in order to utilize the voice mail service. 6222
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(3) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service, and which is typically marketed under the name "900 service" and any subsequent numbers designated by the federal communications commission. "900 service" does not include the charge for collection services provided by the seller of the telecommunications service to the subscriber, or services or products sold by the subscriber to the subscriber's customer. 6227
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(4) "Prepaid calling service" means the right to access 6237
exclusively telecommunications services, which must be paid for 6238
in advance and which enables the origination of calls using an 6239
access number or authorization code, whether manually or 6240
electronically dialed, and that is sold in predetermined units 6241
or dollars of which the number declines with use in a known 6242
amount. 6243

(5) "Prepaid wireless calling service" means a 6244
telecommunications service that provides the right to utilize 6245
mobile telecommunications service as well as other non- 6246
telecommunications services, including the download of digital 6247
products delivered electronically, and content and ancillary 6248
services, that must be paid for in advance and that is sold in 6249
predetermined units or dollars of which the number declines with 6250
use in a known amount. 6251

(6) "Value-added non-voice data service" means a 6252
telecommunications service in which computer processing 6253
applications are used to act on the form, content, code, or 6254
protocol of the information or data primarily for a purpose 6255
other than transmission, conveyance, or routing. 6256

(7) "Coin-operated telephone service" means a 6257
telecommunications service paid for by inserting money into a 6258
telephone accepting direct deposits of money to operate. 6259

(8) "Customer" has the same meaning as in section 5739.034 6260
of the Revised Code. 6261

(BB) "Laundry and dry cleaning services" means removing 6262
soil or dirt from towels, linens, articles of clothing, or other 6263
fabric items that belong to others and supplying towels, linens, 6264
articles of clothing, or other fabric items. "Laundry and dry 6265

cleaning services" does not include the provision of self- 6266
service facilities for use by consumers to remove soil or dirt 6267
from towels, linens, articles of clothing, or other fabric 6268
items. 6269

(CC) "Magazines distributed as controlled circulation 6270
publications" means magazines containing at least twenty-four 6271
pages, at least twenty-five per cent editorial content, issued 6272
at regular intervals four or more times a year, and circulated 6273
without charge to the recipient, provided that such magazines 6274
are not owned or controlled by individuals or business concerns 6275
which conduct such publications as an auxiliary to, and 6276
essentially for the advancement of the main business or calling 6277
of, those who own or control them. 6278

(DD) "Landscaping and lawn care service" means the 6279
services of planting, seeding, sodding, removing, cutting, 6280
trimming, pruning, mulching, aerating, applying chemicals, 6281
watering, fertilizing, and providing similar services to 6282
establish, promote, or control the growth of trees, shrubs, 6283
flowers, grass, ground cover, and other flora, or otherwise 6284
maintaining a lawn or landscape grown or maintained by the owner 6285
for ornamentation or other nonagricultural purpose. However, 6286
"landscaping and lawn care service" does not include the 6287
providing of such services by a person who has less than five 6288
thousand dollars in sales of such services during the calendar 6289
year. 6290

(EE) "Private investigation and security service" means 6291
the performance of any activity for which the provider of such 6292
service is required to be licensed pursuant to Chapter 4749. of 6293
the Revised Code, or would be required to be so licensed in 6294
performing such services in this state, and also includes the 6295

services of conducting polygraph examinations and of monitoring 6296
or overseeing the activities on or in, or the condition of, the 6297
consumer's home, business, or other facility by means of 6298
electronic or similar monitoring devices. "Private investigation 6299
and security service" does not include special duty services 6300
provided by off-duty police officers, deputy sheriffs, and other 6301
peace officers regularly employed by the state or a political 6302
subdivision. 6303

(FF) "Information services" means providing conversation, 6304
giving consultation or advice, playing or making a voice or 6305
other recording, making or keeping a record of the number of 6306
callers, and any other service provided to a consumer by means 6307
of a nine hundred telephone call, except when the nine hundred 6308
telephone call is the means by which the consumer makes a 6309
contribution to a recognized charity. 6310

(GG) "Research and development" means designing, creating, 6311
or formulating new or enhanced products, equipment, or 6312
manufacturing processes, and also means conducting scientific or 6313
technological inquiry and experimentation in the physical 6314
sciences with the goal of increasing scientific knowledge which 6315
may reveal the bases for new or enhanced products, equipment, or 6316
manufacturing processes. 6317

(HH) "Qualified research and development equipment" means 6318
either of the following: 6319

(1) Capitalized tangible personal property, and leased 6320
personal property that would be capitalized if purchased, used 6321
by a person primarily to perform research and development; 6322

(2) Any tangible personal property used by a megaproject 6323
operator primarily to perform research and development at the 6324

site of a megaproject that satisfies the criteria described in 6325
division (A) (11) (a) (ii) of section 122.17 of the Revised Code 6326
during the period that the megaproject operator has an agreement 6327
for such megaproject with the tax credit authority under 6328
division (D) of that section that remains in effect and has not 6329
expired or been terminated. 6330

"Qualified research and development equipment" does not 6331
include tangible personal property primarily used in testing, as 6332
defined in division (A) (4) of section 5739.011 of the Revised 6333
Code, or used for recording or storing test results, unless such 6334
property is primarily used by the consumer in testing the 6335
product, equipment, or manufacturing process being created, 6336
designed, or formulated by the consumer in the research and 6337
development activity or in recording or storing such test 6338
results. 6339

(II) "Building maintenance and janitorial service" means 6340
cleaning the interior or exterior of a building and any tangible 6341
personal property located therein or thereon, including any 6342
services incidental to such cleaning for which no separate 6343
charge is made. However, "building maintenance and janitorial 6344
service" does not include the providing of such service by a 6345
person who has less than five thousand dollars in sales of such 6346
service during the calendar year. As used in this division, 6347
"cleaning" does not include sanitation services necessary for an 6348
establishment described in 21 U.S.C. 608 to comply with rules 6349
and regulations adopted pursuant to that section. 6350

(JJ) "Exterminating service" means eradicating or 6351
attempting to eradicate vermin infestations from a building or 6352
structure, or the area surrounding a building or structure, and 6353
includes activities to inspect, detect, or prevent vermin 6354

infestation of a building or structure. 6355

(KK) "Physical fitness facility service" means all 6356
transactions by which a membership is granted, maintained, or 6357
renewed, including initiation fees, membership dues, renewal 6358
fees, monthly minimum fees, and other similar fees and dues, by 6359
a physical fitness facility such as an athletic club, health 6360
spa, or gymnasium, which entitles the member to use the facility 6361
for physical exercise. 6362

(LL) "Recreation and sports club service" means all 6363
transactions by which a membership is granted, maintained, or 6364
renewed, including initiation fees, membership dues, renewal 6365
fees, monthly minimum fees, and other similar fees and dues, by 6366
a recreation and sports club, which entitles the member to use 6367
the facilities of the organization. "Recreation and sports club" 6368
means an organization that has ownership of, or controls or 6369
leases on a continuing, long-term basis, the facilities used by 6370
its members and includes an aviation club, gun or shooting club, 6371
yacht club, card club, swimming club, tennis club, golf club, 6372
country club, riding club, amateur sports club, or similar 6373
organization. 6374

(MM) "Livestock" means farm animals commonly raised for 6375
food, food production, or other agricultural purposes, 6376
including, but not limited to, cattle, sheep, goats, swine, 6377
poultry, and captive deer. "Livestock" does not include 6378
invertebrates, amphibians, reptiles, domestic pets, animals for 6379
use in laboratories or for exhibition, or other animals not 6380
commonly raised for food or food production. 6381

(NN) "Livestock structure" means a building or structure 6382
used exclusively for the housing, raising, feeding, or 6383
sheltering of livestock, and includes feed storage or handling 6384

structures and structures for livestock waste handling. 6385

(OO) "Horticulture" means the growing, cultivation, and 6386
production of flowers, fruits, herbs, vegetables, sod, 6387
mushrooms, and nursery stock. As used in this division, "nursery 6388
stock" has the same meaning as in section 927.51 of the Revised 6389
Code. 6390

(PP) "Horticulture structure" means a building or 6391
structure used exclusively for the commercial growing, raising, 6392
or overwintering of horticultural products, and includes the 6393
area used for stocking, storing, and packing horticultural 6394
products when done in conjunction with the production of those 6395
products. 6396

(QQ) "Newspaper" means an unbound publication bearing a 6397
title or name that is regularly published, at least as 6398
frequently as biweekly, and distributed from a fixed place of 6399
business to the public in a specific geographic area, and that 6400
contains a substantial amount of news matter of international, 6401
national, or local events of interest to the general public. 6402

(RR) (1) "Feminine hygiene products" means tampons, panty 6403
liners, menstrual cups, sanitary napkins, and other similar 6404
tangible personal property designed for feminine hygiene in 6405
connection with the human menstrual cycle, but does not include 6406
grooming and hygiene products. 6407

(2) "Grooming and hygiene products" means soaps and 6408
cleaning solutions, shampoo, toothpaste, mouthwash, 6409
antiperspirants, and sun tan lotions and screens, regardless of 6410
whether any of these products are over-the-counter drugs. 6411

(3) "Over-the-counter drugs" means a drug that contains a 6412
label that identifies the product as a drug as required by 21 6413

C.F.R. 201.66, which label includes a drug facts panel or a statement of the active ingredients with a list of those ingredients contained in the compound, substance, or preparation.

(SS) (1) "Lease" or "rental" means any transfer of the possession or control of tangible personal property for a fixed or indefinite term, for consideration. "Lease" or "rental" includes future options to purchase or extend, and agreements described in 26 U.S.C. 7701(h) (1) covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon the sale or disposition of the property. "Lease" or "rental" does not include:

(a) A transfer of possession or control of tangible personal property under a security agreement or a deferred payment plan that requires the transfer of title upon completion of the required payments;

(b) A transfer of possession or control of tangible personal property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars or one per cent of the total required payments;

(c) Providing tangible personal property along with an operator for a fixed or indefinite period of time, if the operator is necessary for the property to perform as designed. For purposes of this division, the operator must do more than maintain, inspect, or set up the tangible personal property.

(2) "Lease" and "rental," as defined in division (SS) of this section, shall not apply to leases or rentals that exist

before June 26, 2003. 6443

(3) "Lease" and "rental" have the same meaning as in 6444
division (SS) (1) of this section regardless of whether a 6445
transaction is characterized as a lease or rental under 6446
generally accepted accounting principles, the Internal Revenue 6447
Code, Title XIII of the Revised Code, or other federal, state, 6448
or local laws. 6449

(TT) "Mobile telecommunications service" has the same 6450
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 6451
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 6452
amended, and, on and after August 1, 2003, includes related fees 6453
and ancillary services, including universal service fees, 6454
detailed billing service, directory assistance, service 6455
initiation, voice mail service, and vertical services, such as 6456
caller ID and three-way calling. 6457

(UU) "Certified service provider" has the same meaning as 6458
in section 5740.01 of the Revised Code. 6459

(VV) "Satellite broadcasting service" means the 6460
distribution or broadcasting of programming or services by 6461
satellite directly to the subscriber's receiving equipment 6462
without the use of ground receiving or distribution equipment, 6463
except the subscriber's receiving equipment or equipment used in 6464
the uplink process to the satellite, and includes all service 6465
and rental charges, premium channels or other special services, 6466
installation and repair service charges, and any other charges 6467
having any connection with the provision of the satellite 6468
broadcasting service. 6469

(WW) "Tangible personal property" means personal property 6470
that can be seen, weighed, measured, felt, or touched, or that 6471

is in any other manner perceptible to the senses. For purposes 6472
of this chapter and Chapter 5741. of the Revised Code, "tangible 6473
personal property" includes motor vehicles, electricity, water, 6474
gas, steam, and prewritten computer software. 6475

(XX) "Municipal gas utility" means a municipal corporation 6476
that owns or operates a system for the distribution of natural 6477
gas. 6478

(YY) "Computer" means an electronic device that accepts 6479
information in digital or similar form and manipulates it for a 6480
result based on a sequence of instructions. 6481

(ZZ) "Computer software" means a set of coded instructions 6482
designed to cause a computer or automatic data processing 6483
equipment to perform a task. 6484

(AAA) "Delivered electronically" means delivery of 6485
computer software from the seller to the purchaser by means 6486
other than tangible storage media. 6487

(BBB) "Prewritten computer software" means computer 6488
software, including prewritten upgrades, that is not designed 6489
and developed by the author or other creator to the 6490
specifications of a specific purchaser. The combining of two or 6491
more prewritten computer software programs or prewritten 6492
portions thereof does not cause the combination to be other than 6493
prewritten computer software. "Prewritten computer software" 6494
includes software designed and developed by the author or other 6495
creator to the specifications of a specific purchaser when it is 6496
sold to a person other than the purchaser. If a person modifies 6497
or enhances computer software of which the person is not the 6498
author or creator, the person shall be deemed to be the author 6499
or creator only of such person's modifications or enhancements. 6500

Prewritten computer software or a prewritten portion thereof 6501
that is modified or enhanced to any degree, where such 6502
modification or enhancement is designed and developed to the 6503
specifications of a specific purchaser, remains prewritten 6504
computer software; provided, however, that where there is a 6505
reasonable, separately stated charge or an invoice or other 6506
statement of the price given to the purchaser for the 6507
modification or enhancement, the modification or enhancement 6508
shall not constitute prewritten computer software. 6509

(CCC) (1) "Food" means substances, whether in liquid, 6510
concentrated, solid, frozen, dried, or dehydrated form, that are 6511
sold for ingestion or chewing by humans and are consumed for 6512
their taste or nutritional value. "Food" does not include 6513
alcoholic beverages, dietary supplements, soft drinks, or 6514
tobacco. 6515

(2) As used in division (CCC) (1) of this section: 6516

(a) "Alcoholic beverages" means beverages that are 6517
suitable for human consumption and contain one-half of one per 6518
cent or more of alcohol by volume. 6519

(b) "Dietary supplements" means any product, other than 6520
tobacco, that is intended to supplement the diet and that is 6521
intended for ingestion in tablet, capsule, powder, softgel, 6522
gelcap, or liquid form, or, if not intended for ingestion in 6523
such a form, is not represented as conventional food for use as 6524
a sole item of a meal or of the diet; that is required to be 6525
labeled as a dietary supplement, identifiable by the "supplement 6526
facts" box found on the label, as required by 21 C.F.R. 101.36; 6527
and that contains one or more of the following dietary 6528
ingredients: 6529

(i) A vitamin;	6530
(ii) A mineral;	6531
(iii) An herb or other botanical;	6532
(iv) An amino acid;	6533
(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake;	6534 6535
(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (CCC) (2) (b) (i) to (v) of this section.	6536 6537 6538
(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume.	6539 6540 6541 6542 6543
(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.	6544 6545
(DDD) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplements to them; is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or is intended to affect the structure or any function of the body.	6546 6547 6548 6549 6550 6551 6552 6553 6554
(EEE) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by	6555 6556 6557

the laws of this state to issue a prescription. 6558

(FFF) "Durable medical equipment" means equipment, 6559
including repair and replacement parts for such equipment, that 6560
can withstand repeated use, is primarily and customarily used to 6561
serve a medical purpose, generally is not useful to a person in 6562
the absence of illness or injury, and is not worn in or on the 6563
body. "Durable medical equipment" does not include mobility 6564
enhancing equipment. 6565

(GGG) "Mobility enhancing equipment" means equipment, 6566
including repair and replacement parts for such equipment, that 6567
is primarily and customarily used to provide or increase the 6568
ability to move from one place to another and is appropriate for 6569
use either in a home or a motor vehicle, that is not generally 6570
used by persons with normal mobility, and that does not include 6571
any motor vehicle or equipment on a motor vehicle normally 6572
provided by a motor vehicle manufacturer. "Mobility enhancing 6573
equipment" does not include durable medical equipment. 6574

(HHH) "Prosthetic device" means a replacement, corrective, 6575
or supportive device, including repair and replacement parts for 6576
the device, worn on or in the human body to artificially replace 6577
a missing portion of the body, prevent or correct physical 6578
deformity or malfunction, or support a weak or deformed portion 6579
of the body. As used in this division, before July 1, 2019, 6580
"prosthetic device" does not include corrective eyeglasses, 6581
contact lenses, or dental prosthesis. On or after July 1, 2019, 6582
"prosthetic device" does not include dental prosthesis but does 6583
include corrective eyeglasses or contact lenses. 6584

(III) (1) "Fractional aircraft ownership program" means a 6585
program in which persons within an affiliated group sell and 6586
manage fractional ownership program aircraft, provided that at 6587

least one hundred airworthy aircraft are operated in the program 6588
and the program meets all of the following criteria: 6589

(a) Management services are provided by at least one 6590
program manager within an affiliated group on behalf of the 6591
fractional owners. 6592

(b) Each program aircraft is owned or possessed by at 6593
least one fractional owner. 6594

(c) Each fractional owner owns or possesses at least a 6595
one-sixteenth interest in at least one fixed-wing program 6596
aircraft. 6597

(d) A dry-lease aircraft interchange arrangement is in 6598
effect among all of the fractional owners. 6599

(e) Multi-year program agreements are in effect regarding 6600
the fractional ownership, management services, and dry-lease 6601
aircraft interchange arrangement aspects of the program. 6602

(2) As used in division (III) (1) of this section: 6603

(a) "Affiliated group" has the same meaning as in division 6604
(B) (3) (e) of this section. 6605

(b) "Fractional owner" means a person that owns or 6606
possesses at least a one-sixteenth interest in a program 6607
aircraft and has entered into the agreements described in 6608
division (III) (1) (e) of this section. 6609

(c) "Fractional ownership program aircraft" or "program 6610
aircraft" means a turbojet aircraft that is owned or possessed 6611
by a fractional owner and that has been included in a dry-lease 6612
aircraft interchange arrangement and agreement under divisions 6613
(III) (1) (d) and (e) of this section, or an aircraft a program 6614
manager owns or possesses primarily for use in a fractional 6615

aircraft ownership program. 6616

(d) "Management services" means administrative and 6617
aviation support services furnished under a fractional aircraft 6618
ownership program in accordance with a management services 6619
agreement under division (III) (1) (e) of this section, and 6620
offered by the program manager to the fractional owners, 6621
including, at a minimum, the establishment and implementation of 6622
safety guidelines; the coordination of the scheduling of the 6623
program aircraft and crews; program aircraft maintenance; 6624
program aircraft insurance; crew training for crews employed, 6625
furnished, or contracted by the program manager or the 6626
fractional owner; the satisfaction of record-keeping 6627
requirements; and the development and use of an operations 6628
manual and a maintenance manual for the fractional aircraft 6629
ownership program. 6630

(e) "Program manager" means the person that offers 6631
management services to fractional owners pursuant to a 6632
management services agreement under division (III) (1) (e) of this 6633
section. 6634

(JJJ) "Electronic publishing" means providing access to 6635
one or more of the following primarily for business customers, 6636
including the federal government or a state government or a 6637
political subdivision thereof, to conduct research: news; 6638
business, financial, legal, consumer, or credit materials; 6639
editorials, columns, reader commentary, or features; photos or 6640
images; archival or research material; legal notices, identity 6641
verification, or public records; scientific, educational, 6642
instructional, technical, professional, trade, or other literary 6643
materials; or other similar information which has been gathered 6644
and made available by the provider to the consumer in an 6645

electronic format. Providing electronic publishing includes the 6646
functions necessary for the acquisition, formatting, editing, 6647
storage, and dissemination of data or information that is the 6648
subject of a sale. 6649

(KKK) "Medicaid health insuring corporation" means a 6650
health insuring corporation that holds a certificate of 6651
authority under Chapter 1751. of the Revised Code and is under 6652
contract with the department of medicaid pursuant to section 6653
5167.10 of the Revised Code. 6654

(LLL) "Managed care premium" means any premium, 6655
capitation, or other payment a medicaid health insuring 6656
corporation receives for providing or arranging for the 6657
provision of health care services to its members or enrollees 6658
residing in this state. 6659

(MMM) "Captive deer" means deer and other cervidae that 6660
have been legally acquired, or their offspring, that are 6661
privately owned for agricultural or farming purposes. 6662

(NNN) "Gift card" means a document, card, certificate, or 6663
other record, whether tangible or intangible, that may be 6664
redeemed by a consumer for a dollar value when making a purchase 6665
of tangible personal property or services. 6666

(OOO) "Specified digital product" means an electronically 6667
transferred digital audiovisual work, digital audio work, or 6668
digital book. 6669

As used in division (OOO) of this section: 6670

(1) "Digital audiovisual work" means a series of related 6671
images that, when shown in succession, impart an impression of 6672
motion, together with accompanying sounds, if any. 6673

(2) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds, including digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.

(3) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

(4) "Electronically transferred" means obtained by the purchaser by means other than tangible storage media.

(PPP) "Digital advertising services" means providing access, by means of telecommunications equipment, to computer equipment that is used to enter, upload, download, review, manipulate, store, add, or delete data for the purpose of electronically displaying, delivering, placing, or transferring promotional advertisements to potential customers about products or services or about industry or business brands.

(QQQ) "Peer-to-peer car sharing program" has the same meaning as in section 4516.01 of the Revised Code.

(RRR) "Megaproject" and "megaproject operator" have the same meanings as in section 122.17 of the Revised Code.

(SSS) "Marijuana" means marihuana as defined in section 3719.01 of the Revised Code. "Marijuana" does not include medical marijuana as defined in section 3796.01 of the Revised Code.

Sec. 5739.02. For the purpose of providing revenue with which to meet the needs of the state, for the use of the general revenue fund of the state, for the purpose of securing a thorough and efficient system of common schools throughout the state, for the purpose of affording revenues, in addition to

those from general property taxes, permitted under 6703
constitutional limitations, and from other sources, for the 6704
support of local governmental functions, and for the purpose of 6705
reimbursing the state for the expense of administering this 6706
chapter, an excise tax is hereby levied on each retail sale made 6707
in this state. 6708

(A) (1) The tax shall be collected as provided in section 6709
5739.025 of the Revised Code. The rate of the tax shall be ten 6710
per cent for the retail sale of marijuana and five and three- 6711
fourths per cent for all other retail sales. The tax applies and 6712
is collectible when the sale is made, regardless of the time 6713
when the price is paid or delivered. 6714

(2) In the case of the lease or rental, with a fixed term 6715
of more than thirty days or an indefinite term with a minimum 6716
period of more than thirty days, of any motor vehicles designed 6717
by the manufacturer to carry a load of not more than one ton, 6718
watercraft, outboard motor, or aircraft, or of any tangible 6719
personal property, other than motor vehicles designed by the 6720
manufacturer to carry a load of more than one ton, to be used by 6721
the lessee or renter primarily for business purposes, the tax 6722
shall be collected by the vendor at the time the lease or rental 6723
is consummated and shall be calculated by the vendor on the 6724
basis of the total amount to be paid by the lessee or renter 6725
under the lease agreement. If the total amount of the 6726
consideration for the lease or rental includes amounts that are 6727
not calculated at the time the lease or rental is executed, the 6728
tax shall be calculated and collected by the vendor at the time 6729
such amounts are billed to the lessee or renter. In the case of 6730
an open-end lease or rental, the tax shall be calculated by the 6731
vendor on the basis of the total amount to be paid during the 6732
initial fixed term of the lease or rental, and for each 6733

subsequent renewal period as it comes due. As used in this 6734
division, "motor vehicle" has the same meaning as in section 6735
4501.01 of the Revised Code, and "watercraft" includes an 6736
outdrive unit attached to the watercraft. 6737

A lease with a renewal clause and a termination penalty or 6738
similar provision that applies if the renewal clause is not 6739
exercised is presumed to be a sham transaction. In such a case, 6740
the tax shall be calculated and paid on the basis of the entire 6741
length of the lease period, including any renewal periods, until 6742
the termination penalty or similar provision no longer applies. 6743
The taxpayer shall bear the burden, by a preponderance of the 6744
evidence, that the transaction or series of transactions is not 6745
a sham transaction. 6746

(3) Except as provided in division (A) (2) of this section, 6747
in the case of a sale, the price of which consists in whole or 6748
in part of the lease or rental of tangible personal property, 6749
the tax shall be measured by the installments of that lease or 6750
rental. 6751

(4) In the case of a sale of a physical fitness facility 6752
service or recreation and sports club service, the price of 6753
which consists in whole or in part of a membership for the 6754
receipt of the benefit of the service, the tax applicable to the 6755
sale shall be measured by the installments thereof. 6756

(B) The tax does not apply to the following: 6757

(1) Sales to the state or any of its political 6758
subdivisions, or to any other state or its political 6759
subdivisions if the laws of that state exempt from taxation 6760
sales made to this state and its political subdivisions; 6761

(2) Sales of food for human consumption off the premises 6762

where sold; 6763

(3) Sales of food sold to students only in a cafeteria, 6764
dormitory, fraternity, or sorority maintained in a private, 6765
public, or parochial school, college, or university; 6766

(4) Sales of newspapers and sales or transfers of 6767
magazines distributed as controlled circulation publications; 6768

(5) The furnishing, preparing, or serving of meals without 6769
charge by an employer to an employee provided the employer 6770
records the meals as part compensation for services performed or 6771
work done; 6772

(6) (a) Sales of motor fuel upon receipt, use, 6773
distribution, or sale of which in this state a tax is imposed by 6774
the law of this state, but this exemption shall not apply to the 6775
sale of motor fuel on which a refund of the tax is allowable 6776
under division (A) of section 5735.14 of the Revised Code; and 6777
the tax commissioner may deduct the amount of tax levied by this 6778
section applicable to the price of motor fuel when granting a 6779
refund of motor fuel tax pursuant to division (A) of section 6780
5735.14 of the Revised Code and shall cause the amount deducted 6781
to be paid into the general revenue fund of this state; 6782

(b) Sales of motor fuel other than that described in 6783
division (B) (6) (a) of this section and used for powering a 6784
refrigeration unit on a vehicle other than one used primarily to 6785
provide comfort to the operator or occupants of the vehicle. 6786

(7) Sales of natural gas by a natural gas company or 6787
municipal gas utility, of water by a water-works company, or of 6788
steam by a heating company, if in each case the thing sold is 6789
delivered to consumers through pipes or conduits, and all sales 6790
of communications services by a telegraph company, all terms as 6791

defined in section 5727.01 of the Revised Code, and sales of 6792
electricity delivered through wires; 6793

(8) Casual sales by a person, or auctioneer employed 6794
directly by the person to conduct such sales, except as to such 6795
sales of motor vehicles, watercraft or outboard motors required 6796
to be titled under section 1548.06 of the Revised Code, 6797
watercraft documented with the United States coast guard, 6798
snowmobiles, and all-purpose vehicles as defined in section 6799
4519.01 of the Revised Code; 6800

(9) (a) Sales of services or tangible personal property, 6801
other than motor vehicles, mobile homes, and manufactured homes, 6802
by churches, organizations exempt from taxation under section 6803
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 6804
organizations operated exclusively for charitable purposes as 6805
defined in division (B) (12) of this section, provided that the 6806
number of days on which such tangible personal property or 6807
services, other than items never subject to the tax, are sold 6808
does not exceed six in any calendar year, except as otherwise 6809
provided in division (B) (9) (b) of this section. If the number of 6810
days on which such sales are made exceeds six in any calendar 6811
year, the church or organization shall be considered to be 6812
engaged in business and all subsequent sales by it shall be 6813
subject to the tax. In counting the number of days, all sales by 6814
groups within a church or within an organization shall be 6815
considered to be sales of that church or organization. 6816

(b) The limitation on the number of days on which tax- 6817
exempt sales may be made by a church or organization under 6818
division (B) (9) (a) of this section does not apply to sales made 6819
by student clubs and other groups of students of a primary or 6820
secondary school, or a parent-teacher association, booster 6821

group, or similar organization that raises money to support or 6822
fund curricular or extracurricular activities of a primary or 6823
secondary school. 6824

(c) Divisions (B) (9) (a) and (b) of this section do not 6825
apply to sales by a noncommercial educational radio or 6826
television broadcasting station. 6827

(10) Sales not within the taxing power of this state under 6828
the Constitution or laws of the United States or the 6829
Constitution of this state; 6830

(11) Except for transactions that are sales under division 6831
(B) (3) (p) of section 5739.01 of the Revised Code, the 6832
transportation of persons or property, unless the transportation 6833
is by a private investigation and security service; 6834

(12) Sales of tangible personal property or services to 6835
churches, to organizations exempt from taxation under section 6836
501(c) (3) of the Internal Revenue Code of 1986, and to any other 6837
nonprofit organizations operated exclusively for charitable 6838
purposes in this state, no part of the net income of which 6839
inures to the benefit of any private shareholder or individual, 6840
and no substantial part of the activities of which consists of 6841
carrying on propaganda or otherwise attempting to influence 6842
legislation; sales to offices administering one or more homes 6843
for the aged or one or more hospital facilities exempt under 6844
section 140.08 of the Revised Code; and sales to organizations 6845
described in division (D) of section 5709.12 of the Revised 6846
Code. 6847

"Charitable purposes" means the relief of poverty; the 6848
improvement of health through the alleviation of illness, 6849
disease, or injury; the operation of an organization exclusively 6850

for the provision of professional, laundry, printing, and 6851
purchasing services to hospitals or charitable institutions; the 6852
operation of a home for the aged, as defined in section 5701.13 6853
of the Revised Code; the operation of a radio or television 6854
broadcasting station that is licensed by the federal 6855
communications commission as a noncommercial educational radio 6856
or television station; the operation of a nonprofit animal 6857
adoption service or a county humane society; the promotion of 6858
education by an institution of learning that maintains a faculty 6859
of qualified instructors, teaches regular continuous courses of 6860
study, and confers a recognized diploma upon completion of a 6861
specific curriculum; the operation of a parent-teacher 6862
association, booster group, or similar organization primarily 6863
engaged in the promotion and support of the curricular or 6864
extracurricular activities of a primary or secondary school; the 6865
operation of a community or area center in which presentations 6866
in music, dramatics, the arts, and related fields are made in 6867
order to foster public interest and education therein; the 6868
production of performances in music, dramatics, and the arts; or 6869
the promotion of education by an organization engaged in 6870
carrying on research in, or the dissemination of, scientific and 6871
technological knowledge and information primarily for the 6872
public. 6873

Nothing in this division shall be deemed to exempt sales 6874
to any organization for use in the operation or carrying on of a 6875
trade or business, or sales to a home for the aged for use in 6876
the operation of independent living facilities as defined in 6877
division (A) of section 5709.12 of the Revised Code. 6878

(13) Building and construction materials and services sold 6879
to construction contractors for incorporation into a structure 6880
or improvement to real property under a construction contract 6881

with this state or a political subdivision of this state, or 6882
with the United States government or any of its agencies; 6883
building and construction materials and services sold to 6884
construction contractors for incorporation into a structure or 6885
improvement to real property that are accepted for ownership by 6886
this state or any of its political subdivisions, or by the 6887
United States government or any of its agencies at the time of 6888
completion of the structures or improvements; building and 6889
construction materials sold to construction contractors for 6890
incorporation into a horticulture structure or livestock 6891
structure for a person engaged in the business of horticulture 6892
or producing livestock; building materials and services sold to 6893
a construction contractor for incorporation into a house of 6894
public worship or religious education, or a building used 6895
exclusively for charitable purposes under a construction 6896
contract with an organization whose purpose is as described in 6897
division (B) (12) of this section; building materials and 6898
services sold to a construction contractor for incorporation 6899
into a building under a construction contract with an 6900
organization exempt from taxation under section 501(c) (3) of the 6901
Internal Revenue Code of 1986 when the building is to be used 6902
exclusively for the organization's exempt purposes; building and 6903
construction materials sold for incorporation into the original 6904
construction of a sports facility under section 307.696 of the 6905
Revised Code; building and construction materials and services 6906
sold to a construction contractor for incorporation into real 6907
property outside this state if such materials and services, when 6908
sold to a construction contractor in the state in which the real 6909
property is located for incorporation into real property in that 6910
state, would be exempt from a tax on sales levied by that state; 6911
building and construction materials for incorporation into a 6912
transportation facility pursuant to a public-private agreement 6913

entered into under sections 5501.70 to 5501.83 of the Revised Code; until one calendar year after the construction of a convention center that qualifies for property tax exemption under section 5709.084 of the Revised Code is completed, building and construction materials and services sold to a construction contractor for incorporation into the real property comprising that convention center; and building and construction materials sold for incorporation into a structure or improvement to real property that is used primarily as, or primarily in support of, a manufacturing facility or research and development facility and that is to be owned by a megaproject operator upon completion and located at the site of a megaproject that satisfies the criteria described in division (A) (11) (a) (ii) of section 122.17 of the Revised Code, provided that the sale occurs during the period that the megaproject operator has an agreement for such megaproject with the tax credit authority under division (D) of section 122.17 of the Revised Code that remains in effect and has not expired or been terminated.

(14) Sales of ships or vessels or rail rolling stock used or to be used principally in interstate or foreign commerce, and repairs, alterations, fuel, and lubricants for such ships or vessels or rail rolling stock;

(15) Sales to persons primarily engaged in any of the activities mentioned in division (B) (42) (a), (g), or (h) of this section, to persons engaged in making retail sales, or to persons who purchase for sale from a manufacturer tangible personal property that was produced by the manufacturer in accordance with specific designs provided by the purchaser, of packages, including material, labels, and parts for packages, and of machinery, equipment, and material for use primarily in packaging tangible personal property produced for sale,

including any machinery, equipment, and supplies used to make 6945
labels or packages, to prepare packages or products for 6946
labeling, or to label packages or products, by or on the order 6947
of the person doing the packaging, or sold at retail. "Packages" 6948
includes bags, baskets, cartons, crates, boxes, cans, bottles, 6949
bindings, wrappings, and other similar devices and containers, 6950
but does not include motor vehicles or bulk tanks, trailers, or 6951
similar devices attached to motor vehicles. "Packaging" means 6952
placing in a package. Division (B) (15) of this section does not 6953
apply to persons engaged in highway transportation for hire. 6954

(16) Sales of food to persons using supplemental nutrition 6955
assistance program benefits to purchase the food. As used in 6956
this division, "food" has the same meaning as in 7 U.S.C. 2012 6957
and federal regulations adopted pursuant to the Food and 6958
Nutrition Act of 2008. 6959

(17) Sales to persons engaged in farming, agriculture, 6960
horticulture, or floriculture, of tangible personal property for 6961
use or consumption primarily in the production by farming, 6962
agriculture, horticulture, or floriculture of other tangible 6963
personal property for use or consumption primarily in the 6964
production of tangible personal property for sale by farming, 6965
agriculture, horticulture, or floriculture; or material and 6966
parts for incorporation into any such tangible personal property 6967
for use or consumption in production; and of tangible personal 6968
property for such use or consumption in the conditioning or 6969
holding of products produced by and for such use, consumption, 6970
or sale by persons engaged in farming, agriculture, 6971
horticulture, or floriculture, except where such property is 6972
incorporated into real property; 6973

(18) Sales of drugs for a human being that may be 6974

dispensed only pursuant to a prescription; insulin as recognized 6975
in the official United States pharmacopoeia; urine and blood 6976
testing materials when used by diabetics or persons with 6977
hypoglycemia to test for glucose or acetone; hypodermic syringes 6978
and needles when used by diabetics for insulin injections; 6979
epoetin alfa when purchased for use in the treatment of persons 6980
with medical disease; hospital beds when purchased by hospitals, 6981
nursing homes, or other medical facilities; and medical oxygen 6982
and medical oxygen-dispensing equipment when purchased by 6983
hospitals, nursing homes, or other medical facilities; 6984

(19) Sales of prosthetic devices, durable medical 6985
equipment for home use, or mobility enhancing equipment, when 6986
made pursuant to a prescription and when such devices or 6987
equipment are for use by a human being. 6988

(20) Sales of emergency and fire protection vehicles and 6989
equipment to nonprofit organizations for use solely in providing 6990
fire protection and emergency services, including trauma care 6991
and emergency medical services, for political subdivisions of 6992
the state; 6993

(21) Sales of tangible personal property manufactured in 6994
this state, if sold by the manufacturer in this state to a 6995
retailer for use in the retail business of the retailer outside 6996
of this state and if possession is taken from the manufacturer 6997
by the purchaser within this state for the sole purpose of 6998
immediately removing the same from this state in a vehicle owned 6999
by the purchaser; 7000

(22) Sales of services provided by the state or any of its 7001
political subdivisions, agencies, instrumentalities, 7002
institutions, or authorities, or by governmental entities of the 7003
state or any of its political subdivisions, agencies, 7004

instrumentalities, institutions, or authorities;	7005
(23) Sales of motor vehicles to nonresidents of this state	7006
under the circumstances described in division (B) of section	7007
5739.029 of the Revised Code;	7008
(24) Sales to persons engaged in the preparation of eggs	7009
for sale of tangible personal property used or consumed directly	7010
in such preparation, including such tangible personal property	7011
used for cleaning, sanitizing, preserving, grading, sorting, and	7012
classifying by size; packages, including material and parts for	7013
packages, and machinery, equipment, and material for use in	7014
packaging eggs for sale; and handling and transportation	7015
equipment and parts therefor, except motor vehicles licensed to	7016
operate on public highways, used in intraplant or interplant	7017
transfers or shipment of eggs in the process of preparation for	7018
sale, when the plant or plants within or between which such	7019
transfers or shipments occur are operated by the same person.	7020
"Packages" includes containers, cases, baskets, flats, fillers,	7021
filler flats, cartons, closure materials, labels, and labeling	7022
materials, and "packaging" means placing therein.	7023
(25) (a) Sales of water to a consumer for residential use;	7024
(b) Sales of water by a nonprofit corporation engaged	7025
exclusively in the treatment, distribution, and sale of water to	7026
consumers, if such water is delivered to consumers through pipes	7027
or tubing.	7028
(26) Fees charged for inspection or reinspection of motor	7029
vehicles under section 3704.14 of the Revised Code;	7030
(27) Sales to persons licensed to conduct a food service	7031
operation pursuant to section 3717.43 of the Revised Code, of	7032
tangible personal property primarily used directly for the	7033

following:	7034
(a) To prepare food for human consumption for sale;	7035
(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	7036 7037 7038 7039
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	7040 7041
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	7042 7043
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	7044 7045 7046 7047
(30) Sales and installation of agricultural land tile, as defined in division (B) (5) (a) of section 5739.01 of the Revised Code;	7048 7049 7050
(31) Sales and erection or installation of portable grain bins, as defined in division (B) (5) (b) of section 5739.01 of the Revised Code;	7051 7052 7053
(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;	7054 7055 7056 7057 7058 7059
(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and	7060 7061

issued a charter by the congress of the United States or is 7062
recognized by the United States veterans administration, for use 7063
by the headquarters; 7064

(34) Sales to a telecommunications service vendor, mobile 7065
telecommunications service vendor, or satellite broadcasting 7066
service vendor of tangible personal property and services used 7067
directly and primarily in transmitting, receiving, switching, or 7068
recording any interactive, one- or two-way electromagnetic 7069
communications, including voice, image, data, and information, 7070
through the use of any medium, including, but not limited to, 7071
poles, wires, cables, switching equipment, computers, and record 7072
storage devices and media, and component parts for the tangible 7073
personal property. The exemption provided in this division shall 7074
be in lieu of all other exemptions under division (B) (42) (a) or 7075
(n) of this section to which the vendor may otherwise be 7076
entitled, based upon the use of the thing purchased in providing 7077
the telecommunications, mobile telecommunications, or satellite 7078
broadcasting service. 7079

(35) (a) Sales where the purpose of the consumer is to use 7080
or consume the things transferred in making retail sales and 7081
consisting of newspaper inserts, catalogues, coupons, flyers, 7082
gift certificates, or other advertising material that prices and 7083
describes tangible personal property offered for retail sale. 7084

(b) Sales to direct marketing vendors of preliminary 7085
materials such as photographs, artwork, and typesetting that 7086
will be used in printing advertising material; and of printed 7087
matter that offers free merchandise or chances to win sweepstake 7088
prizes and that is mailed to potential customers with 7089
advertising material described in division (B) (35) (a) of this 7090
section; 7091

(c) Sales of equipment such as telephones, computers, 7092
facsimile machines, and similar tangible personal property 7093
primarily used to accept orders for direct marketing retail 7094
sales. 7095

(d) Sales of automatic food vending machines that preserve 7096
food with a shelf life of forty-five days or less by 7097
refrigeration and dispense it to the consumer. 7098

For purposes of division (B) (35) of this section, "direct 7099
marketing" means the method of selling where consumers order 7100
tangible personal property by United States mail, delivery 7101
service, or telecommunication and the vendor delivers or ships 7102
the tangible personal property sold to the consumer from a 7103
warehouse, catalogue distribution center, or similar fulfillment 7104
facility by means of the United States mail, delivery service, 7105
or common carrier. 7106

(36) Sales to a person engaged in the business of 7107
horticulture or producing livestock of materials to be 7108
incorporated into a horticulture structure or livestock 7109
structure; 7110

(37) Sales of personal computers, computer monitors, 7111
computer keyboards, modems, and other peripheral computer 7112
equipment to an individual who is licensed or certified to teach 7113
in an elementary or a secondary school in this state for use by 7114
that individual in preparation for teaching elementary or 7115
secondary school students; 7116

(38) Sales of tangible personal property that is not 7117
required to be registered or licensed under the laws of this 7118
state to a citizen of a foreign nation that is not a citizen of 7119
the United States, provided the property is delivered to a 7120

person in this state that is not a related member of the 7121
purchaser, is physically present in this state for the sole 7122
purpose of temporary storage and package consolidation, and is 7123
subsequently delivered to the purchaser at a delivery address in 7124
a foreign nation. As used in division (B)(38) of this section, 7125
"related member" has the same meaning as in section 5733.042 of 7126
the Revised Code, and "temporary storage" means the storage of 7127
tangible personal property for a period of not more than sixty 7128
days. 7129

(39) Sales of used manufactured homes and used mobile 7130
homes, as defined in section 5739.0210 of the Revised Code, made 7131
on or after January 1, 2000; 7132

(40) Sales of tangible personal property and services to a 7133
provider of electricity used or consumed directly and primarily 7134
in generating, transmitting, or distributing electricity for use 7135
by others, including property that is or is to be incorporated 7136
into and will become a part of the consumer's production, 7137
transmission, or distribution system and that retains its 7138
classification as tangible personal property after 7139
incorporation; fuel or power used in the production, 7140
transmission, or distribution of electricity; energy conversion 7141
equipment as defined in section 5727.01 of the Revised Code; and 7142
tangible personal property and services used in the repair and 7143
maintenance of the production, transmission, or distribution 7144
system, including only those motor vehicles as are specially 7145
designed and equipped for such use. The exemption provided in 7146
this division shall be in lieu of all other exemptions in 7147
division (B)(42)(a) or (n) of this section to which a provider 7148
of electricity may otherwise be entitled based on the use of the 7149
tangible personal property or service purchased in generating, 7150
transmitting, or distributing electricity. 7151

(41) Sales to a person providing services under division 7152
(B) (3) (p) of section 5739.01 of the Revised Code of tangible 7153
personal property and services used directly and primarily in 7154
providing taxable services under that section. 7155

(42) Sales where the purpose of the purchaser is to do any 7156
of the following: 7157

(a) To incorporate the thing transferred as a material or 7158
a part into tangible personal property to be produced for sale 7159
by manufacturing, assembling, processing, or refining; or to use 7160
or consume the thing transferred directly in producing tangible 7161
personal property for sale by mining, including, without 7162
limitation, the extraction from the earth of all substances that 7163
are classed geologically as minerals, or directly in the 7164
rendition of a public utility service, except that the sales tax 7165
levied by this section shall be collected upon all meals, 7166
drinks, and food for human consumption sold when transporting 7167
persons. This paragraph does not exempt from "retail sale" or 7168
"sales at retail" the sale of tangible personal property that is 7169
to be incorporated into a structure or improvement to real 7170
property. 7171

(b) To hold the thing transferred as security for the 7172
performance of an obligation of the vendor; 7173

(c) To resell, hold, use, or consume the thing transferred 7174
as evidence of a contract of insurance; 7175

(d) To use or consume the thing directly in commercial 7176
fishing; 7177

(e) To incorporate the thing transferred as a material or 7178
a part into, or to use or consume the thing transferred directly 7179
in the production of, magazines distributed as controlled 7180

circulation publications;	7181
(f) To use or consume the thing transferred in the	7182
production and preparation in suitable condition for market and	7183
sale of printed, imprinted, overprinted, lithographic,	7184
multilithic, blueprinted, photostatic, or other productions or	7185
reproductions of written or graphic matter;	7186
(g) To use the thing transferred, as described in section	7187
5739.011 of the Revised Code, primarily in a manufacturing	7188
operation to produce tangible personal property for sale;	7189
(h) To use the benefit of a warranty, maintenance or	7190
service contract, or similar agreement, as described in division	7191
(B) (7) of section 5739.01 of the Revised Code, to repair or	7192
maintain tangible personal property, if all of the property that	7193
is the subject of the warranty, contract, or agreement would not	7194
be subject to the tax imposed by this section;	7195
(i) To use the thing transferred as qualified research and	7196
development equipment;	7197
(j) To use or consume the thing transferred primarily in	7198
storing, transporting, mailing, or otherwise handling purchased	7199
sales inventory in a warehouse, distribution center, or similar	7200
facility when the inventory is primarily distributed outside	7201
this state to retail stores of the person who owns or controls	7202
the warehouse, distribution center, or similar facility, to	7203
retail stores of an affiliated group of which that person is a	7204
member, or by means of direct marketing. This division does not	7205
apply to motor vehicles registered for operation on the public	7206
highways. As used in this division, "affiliated group" has the	7207
same meaning as in division (B) (3) (e) of section 5739.01 of the	7208
Revised Code and "direct marketing" has the same meaning as in	7209

division (B) (35) of this section. 7210

(k) To use or consume the thing transferred to fulfill a 7211
contractual obligation incurred by a warrantor pursuant to a 7212
warranty provided as a part of the price of the tangible 7213
personal property sold or by a vendor of a warranty, maintenance 7214
or service contract, or similar agreement the provision of which 7215
is defined as a sale under division (B) (7) of section 5739.01 of 7216
the Revised Code; 7217

(l) To use or consume the thing transferred in the 7218
production of a newspaper for distribution to the public; 7219

(m) To use tangible personal property to perform a service 7220
listed in division (B) (3) of section 5739.01 of the Revised 7221
Code, if the property is or is to be permanently transferred to 7222
the consumer of the service as an integral part of the 7223
performance of the service; 7224

(n) To use or consume the thing transferred primarily in 7225
producing tangible personal property for sale by farming, 7226
agriculture, horticulture, or floriculture. Persons engaged in 7227
rendering farming, agriculture, horticulture, or floriculture 7228
services for others are deemed engaged primarily in farming, 7229
agriculture, horticulture, or floriculture. This paragraph does 7230
not exempt from "retail sale" or "sales at retail" the sale of 7231
tangible personal property that is to be incorporated into a 7232
structure or improvement to real property. 7233

(o) To use or consume the thing transferred in acquiring, 7234
formatting, editing, storing, and disseminating data or 7235
information by electronic publishing; 7236

(p) To provide the thing transferred to the owner or 7237
lessee of a motor vehicle that is being repaired or serviced, if 7238

the thing transferred is a rented motor vehicle and the 7239
purchaser is reimbursed for the cost of the rented motor vehicle 7240
by a manufacturer, warrantor, or provider of a maintenance, 7241
service, or other similar contract or agreement, with respect to 7242
the motor vehicle that is being repaired or serviced; 7243

(q) To use or consume the thing transferred directly in 7244
production of crude oil and natural gas for sale. Persons 7245
engaged in rendering production services for others are deemed 7246
engaged in production. 7247

As used in division (B) (42) (q) of this section, 7248
"production" means operations and tangible personal property 7249
directly used to expose and evaluate an underground reservoir 7250
that may contain hydrocarbon resources, prepare the wellbore for 7251
production, and lift and control all substances yielded by the 7252
reservoir to the surface of the earth. 7253

(i) For the purposes of division (B) (42) (q) of this 7254
section, the "thing transferred" includes, but is not limited 7255
to, any of the following: 7256

(I) Services provided in the construction of permanent 7257
access roads, services provided in the construction of the well 7258
site, and services provided in the construction of temporary 7259
impoundments; 7260

(II) Equipment and rigging used for the specific purpose 7261
of creating with integrity a wellbore pathway to underground 7262
reservoirs; 7263

(III) Drilling and workover services used to work within a 7264
subsurface wellbore, and tangible personal property directly 7265
used in providing such services; 7266

(IV) Casing, tubulars, and float and centralizing 7267

equipment;	7268
(V) Trailers to which production equipment is attached;	7269
(VI) Well completion services, including cementing of casing, and tangible personal property directly used in providing such services;	7270 7271 7272
(VII) Wireline evaluation, mud logging, and perforation services, and tangible personal property directly used in providing such services;	7273 7274 7275
(VIII) Reservoir stimulation, hydraulic fracturing, and acidizing services, and tangible personal property directly used in providing such services, including all material pumped downhole;	7276 7277 7278 7279
(IX) Pressure pumping equipment;	7280
(X) Artificial lift systems equipment;	7281
(XI) Wellhead equipment and well site equipment used to separate, stabilize, and control hydrocarbon phases and produced water;	7282 7283 7284
(XII) Tangible personal property directly used to control production equipment.	7285 7286
(ii) For the purposes of division (B) (42) (q) of this section, the "thing transferred" does not include any of the following:	7287 7288 7289
(I) Tangible personal property used primarily in the exploration and production of any mineral resource regulated under Chapter 1509. of the Revised Code other than oil or gas;	7290 7291 7292
(II) Tangible personal property used primarily in storing, holding, or delivering solutions or chemicals used in well	7293 7294

stimulation as defined in section 1509.01 of the Revised Code;	7295
(III) Tangible personal property used primarily in	7296
preparing, installing, or reclaiming foundations for drilling or	7297
pumping equipment or well stimulation material tanks;	7298
(IV) Tangible personal property used primarily in	7299
transporting, delivering, or removing equipment to or from the	7300
well site or storing such equipment before its use at the well	7301
site;	7302
(V) Tangible personal property used primarily in gathering	7303
operations occurring off the well site, including gathering	7304
pipelines transporting hydrocarbon gas or liquids away from a	7305
crude oil or natural gas production facility;	7306
(VI) Tangible personal property that is to be incorporated	7307
into a structure or improvement to real property;	7308
(VII) Well site fencing, lighting, or security systems;	7309
(VIII) Communication devices or services;	7310
(IX) Office supplies;	7311
(X) Trailers used as offices or lodging;	7312
(XI) Motor vehicles of any kind;	7313
(XII) Tangible personal property used primarily for the	7314
storage of drilling byproducts and fuel not used for production;	7315
(XIII) Tangible personal property used primarily as a	7316
safety device;	7317
(XIV) Data collection or monitoring devices;	7318
(XV) Access ladders, stairs, or platforms attached to	7319
storage tanks.	7320

The enumeration of tangible personal property in division 7321
(B) (42) (q) (ii) of this section is not intended to be exhaustive, 7322
and any tangible personal property not so enumerated shall not 7323
necessarily be construed to be a "thing transferred" for the 7324
purposes of division (B) (42) (q) of this section. 7325

The commissioner shall adopt and promulgate rules under 7326
sections 119.01 to 119.13 of the Revised Code that the 7327
commissioner deems necessary to administer division (B) (42) (q) 7328
of this section. 7329

As used in division (B) (42) of this section, "thing" 7330
includes all transactions included in divisions (B) (3) (a), (b), 7331
and (e) of section 5739.01 of the Revised Code. 7332

(43) Sales conducted through a coin operated device that 7333
activates vacuum equipment or equipment that dispenses water, 7334
whether or not in combination with soap or other cleaning agents 7335
or wax, to the consumer for the consumer's use on the premises 7336
in washing, cleaning, or waxing a motor vehicle, provided no 7337
other personal property or personal service is provided as part 7338
of the transaction. 7339

(44) Sales of replacement and modification parts for 7340
engines, airframes, instruments, and interiors in, and paint 7341
for, aircraft used primarily in a fractional aircraft ownership 7342
program, and sales of services for the repair, modification, and 7343
maintenance of such aircraft, and machinery, equipment, and 7344
supplies primarily used to provide those services. 7345

(45) Sales of telecommunications service that is used 7346
directly and primarily to perform the functions of a call 7347
center. As used in this division, "call center" means any 7348
physical location where telephone calls are placed or received 7349

in high volume for the purpose of making sales, marketing, 7350
customer service, technical support, or other specialized 7351
business activity, and that employs at least fifty individuals 7352
that engage in call center activities on a full-time basis, or 7353
sufficient individuals to fill fifty full-time equivalent 7354
positions. 7355

(46) Sales by a telecommunications service vendor of 900 7356
service to a subscriber. This division does not apply to 7357
information services. 7358

(47) Sales of value-added non-voice data service. This 7359
division does not apply to any similar service that is not 7360
otherwise a telecommunications service. 7361

(48) Sales of feminine hygiene products. 7362

(49) Sales of materials, parts, equipment, or engines used 7363
in the repair or maintenance of aircraft or avionics systems of 7364
such aircraft, and sales of repair, remodeling, replacement, or 7365
maintenance services in this state performed on aircraft or on 7366
an aircraft's avionics, engine, or component materials or parts. 7367
As used in division (B) (49) of this section, "aircraft" means 7368
aircraft of more than six thousand pounds maximum certified 7369
takeoff weight or used exclusively in general aviation. 7370

(50) Sales of full flight simulators that are used for 7371
pilot or flight-crew training, sales of repair or replacement 7372
parts or components, and sales of repair or maintenance services 7373
for such full flight simulators. "Full flight simulator" means a 7374
replica of a specific type, or make, model, and series of 7375
aircraft cockpit. It includes the assemblage of equipment and 7376
computer programs necessary to represent aircraft operations in 7377
ground and flight conditions, a visual system providing an out- 7378

of-the-cockpit view, and a system that provides cues at least 7379
equivalent to those of a three-degree-of-freedom motion system, 7380
and has the full range of capabilities of the systems installed 7381
in the device as described in appendices A and B of part 60 of 7382
chapter 1 of title 14 of the Code of Federal Regulations. 7383

(51) Any transfer or lease of tangible personal property 7384
between the state and JobsOhio in accordance with section 7385
4313.02 of the Revised Code. 7386

(52) (a) Sales to a qualifying corporation. 7387

(b) As used in division (B) (52) of this section: 7388

(i) "Qualifying corporation" means a nonprofit corporation 7389
organized in this state that leases from an eligible county 7390
land, buildings, structures, fixtures, and improvements to the 7391
land that are part of or used in a public recreational facility 7392
used by a major league professional athletic team or a class A 7393
to class AAA minor league affiliate of a major league 7394
professional athletic team for a significant portion of the 7395
team's home schedule, provided the following apply: 7396

(I) The facility is leased from the eligible county 7397
pursuant to a lease that requires substantially all of the 7398
revenue from the operation of the business or activity conducted 7399
by the nonprofit corporation at the facility in excess of 7400
operating costs, capital expenditures, and reserves to be paid 7401
to the eligible county at least once per calendar year. 7402

(II) Upon dissolution and liquidation of the nonprofit 7403
corporation, all of its net assets are distributable to the 7404
board of commissioners of the eligible county from which the 7405
corporation leases the facility. 7406

(ii) "Eligible county" has the same meaning as in section 7407

307.695 of the Revised Code.	7408
(53) Sales to or by a cable service provider, video	7409
service provider, or radio or television broadcast station	7410
regulated by the federal government of cable service or	7411
programming, video service or programming, audio service or	7412
programming, or electronically transferred digital audiovisual	7413
or audio work. As used in division (B) (53) of this section,	7414
"cable service" and "cable service provider" have the same	7415
meanings as in section 1332.01 of the Revised Code, and "video	7416
service," "video service provider," and "video programming" have	7417
the same meanings as in section 1332.21 of the Revised Code.	7418
(54) Sales of a digital audio work electronically	7419
transferred for delivery through use of a machine, such as a	7420
juke box, that does all of the following:	7421
(a) Accepts direct payments to operate;	7422
(b) Automatically plays a selected digital audio work for	7423
a single play upon receipt of a payment described in division	7424
(B) (54) (a) of this section;	7425
(c) Operates exclusively for the purpose of playing	7426
digital audio works in a commercial establishment.	7427
(55) (a) Sales of the following occurring on the first	7428
Friday of August and the following Saturday and Sunday of each	7429
year, beginning in 2018:	7430
(i) An item of clothing, the price of which is seventy-	7431
five dollars or less;	7432
(ii) An item of school supplies, the price of which is	7433
twenty dollars or less;	7434
(iii) An item of school instructional material, the price	7435

of which is twenty dollars or less. 7436

(b) As used in division (B) (55) of this section: 7437

(i) "Clothing" means all human wearing apparel suitable 7438

for general use. "Clothing" includes, but is not limited to, 7439

aprons, household and shop; athletic supporters; baby receiving 7440

blankets; bathing suits and caps; beach capes and coats; belts 7441

and suspenders; boots; coats and jackets; costumes; diapers, 7442

children and adult, including disposable diapers; earmuffs; 7443

footlets; formal wear; garters and garter belts; girdles; gloves 7444

and mittens for general use; hats and caps; hosiery; insoles for 7445

shoes; lab coats; neckties; overshoes; pantyhose; rainwear; 7446

rubber pants; sandals; scarves; shoes and shoe laces; slippers; 7447

sneakers; socks and stockings; steel-toed shoes; underwear; 7448

uniforms, athletic and nonathletic; and wedding apparel. 7449

"Clothing" does not include items purchased for use in a trade 7450

or business; clothing accessories or equipment; protective 7451

equipment; sports or recreational equipment; belt buckles sold 7452

separately; costume masks sold separately; patches and emblems 7453

sold separately; sewing equipment and supplies including, but 7454

not limited to, knitting needles, patterns, pins, scissors, 7455

sewing machines, sewing needles, tape measures, and thimbles; 7456

and sewing materials that become part of "clothing" including, 7457

but not limited to, buttons, fabric, lace, thread, yarn, and 7458

zippers. 7459

(ii) "School supplies" means items commonly used by a 7460

student in a course of study. "School supplies" includes only 7461

the following items: binders; book bags; calculators; cellophane 7462

tape; blackboard chalk; compasses; composition books; crayons; 7463

erasers; folders, expandable, pocket, plastic, and manila; glue, 7464

paste, and paste sticks; highlighters; index cards; index card 7465

boxes; legal pads; lunch boxes; markers; notebooks; paper, 7466
loose-leaf ruled notebook paper, copy paper, graph paper, 7467
tracing paper, manila paper, colored paper, poster board, and 7468
construction paper; pencil boxes and other school supply boxes; 7469
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 7470
and writing tablets. "School supplies" does not include any item 7471
purchased for use in a trade or business. 7472

(iii) "School instructional material" means written 7473
material commonly used by a student in a course of study as a 7474
reference and to learn the subject being taught. "School 7475
instructional material" includes only the following items: 7476
reference books, reference maps and globes, textbooks, and 7477
workbooks. "School instructional material" does not include any 7478
material purchased for use in a trade or business. 7479

(56) (a) Sales of diapers or incontinence underpads sold 7480
pursuant to a prescription, for the benefit of a medicaid 7481
recipient with a diagnosis of incontinence, and by a medicaid 7482
provider that maintains a valid provider agreement under section 7483
5164.30 of the Revised Code with the department of medicaid, 7484
provided that the medicaid program covers diapers or 7485
incontinence underpads as an incontinence garment. 7486

(b) As used in division (B) (56) (a) of this section: 7487

(i) "Diaper" means an absorbent garment worn by humans who 7488
are incapable of, or have difficulty, controlling their bladder 7489
or bowel movements. 7490

(ii) "Incontinence underpad" means an absorbent product, 7491
not worn on the body, designed to protect furniture or other 7492
tangible personal property from soiling or damage due to human 7493
incontinence. 7494

(57) Sales of investment metal bullion and investment 7495
coins. "Investment metal bullion" means any bullion described in 7496
section 408(m) (3) (B) of the Internal Revenue Code, regardless of 7497
whether that bullion is in the physical possession of a trustee. 7498
"Investment coin" means any coin composed primarily of gold, 7499
silver, platinum, or palladium. 7500

(58) Sales of tangible personal property used primarily 7501
for any of the following purposes by a megaproject operator at 7502
the site of a megaproject that satisfies the criteria described 7503
in division (A) (11) (a) (ii) of section 122.17 of the Revised 7504
Code, provided that the sale occurs during the period that the 7505
megaproject operator has an agreement for such megaproject with 7506
the tax credit authority under division (D) of section 122.17 of 7507
the Revised Code that remains in effect and has not expired or 7508
been terminated: 7509

(a) To store, transmit, convey, distribute, recycle, 7510
circulate, or clean water, steam, or other gases used in or 7511
produced as a result of manufacturing activity, including items 7512
that support or aid in the operation of such property; 7513

(b) To clean or prepare inventory, at any stage of storage 7514
or production, or equipment used in a manufacturing activity, 7515
including chemicals, solvents, catalysts, soaps, and other items 7516
that support or aid in the operation of property; 7517

(c) To regulate, treat, filter, condition, improve, clean, 7518
maintain, or monitor environmental conditions within areas where 7519
manufacturing activities take place; 7520

(d) To handle, transport, or convey inventory during 7521
production or manufacturing. 7522

(59) Documentary services charges imposed pursuant to 7523

section 4517.261 or 4781.24 of the Revised Code. 7524

(C) For the purpose of the proper administration of this 7525
chapter, and to prevent the evasion of the tax, it is presumed 7526
that all sales made in this state are subject to the tax until 7527
the contrary is established. 7528

(D) The tax collected by the vendor from the consumer 7529
under this chapter is not part of the price, but is a tax 7530
collection for the benefit of the state, and of counties levying 7531
an additional sales tax pursuant to section 5739.021 or 5739.026 7532
of the Revised Code and of transit authorities levying an 7533
additional sales tax pursuant to section 5739.023 of the Revised 7534
Code. Except for the discount authorized under section 5739.12 7535
of the Revised Code and the effects of any rounding pursuant to 7536
section 5703.055 of the Revised Code, no person other than the 7537
state or such a county or transit authority shall derive any 7538
benefit from the collection or payment of the tax levied by this 7539
section or section 5739.021, 5739.023, or 5739.026 of the 7540
Revised Code. 7541

Sec. 5739.021. (A) For the purpose of providing additional 7542
general revenues for the county, supporting criminal and 7543
administrative justice services in the county, funding a 7544
regional transportation improvement project under section 7545
5595.06 of the Revised Code, or any combination of the 7546
foregoing, and to pay the expenses of administering such levy, 7547
any county may levy a tax at the rate of not more than one per 7548
cent upon every retail sale made in the county, except sales of 7549
watercraft and outboard motors required to be titled pursuant to 7550
Chapter 1548. of the Revised Code and sales of motor vehicles 7551
and marijuana, and may increase the rate of an existing tax to 7552
not more than one per cent. The rate of any tax levied pursuant 7553

to this section shall be a multiple of one-twentieth of one per 7554
cent. The rate levied under this section in any county other 7555
than a county that adopted a charter under Article X, Section 3, 7556
Ohio Constitution, may exceed one per cent, but may not exceed 7557
one and one-half per cent minus the amount by which the rate 7558
levied under section 5739.023 of the Revised Code by the county 7559
transit authority exceeds one per cent. 7560

The tax shall be levied and the rate increased pursuant to 7561
a resolution of the board of county commissioners. The 7562
resolution shall state the purpose for which the tax is to be 7563
levied and the number of years for which the tax is to be 7564
levied, or that it is for a continuing period of time. If the 7565
tax is to be levied for the purpose of providing additional 7566
general revenues and for the purpose of supporting criminal and 7567
administrative justice services, the resolution shall state the 7568
rate or amount of the tax to be apportioned to each such 7569
purpose. The rate or amount may be different for each year the 7570
tax is to be levied, but the rates or amounts actually 7571
apportioned each year shall not be different from that stated in 7572
the resolution for that year. Any amount by which the rate of 7573
the tax exceeds one per cent shall be apportioned exclusively 7574
for the construction, operation, acquisition, equipping, or 7575
repair of a detention facility in the county. 7576

If the resolution is adopted as an emergency measure 7577
necessary for the immediate preservation of the public peace, 7578
health, or safety, it must receive an affirmative vote of all of 7579
the members of the board of county commissioners and shall state 7580
the reasons for such necessity. The board shall deliver a 7581
certified copy of the resolution to the tax commissioner, not 7582
later than the sixty-fifth day prior to the date on which the 7583
tax is to become effective, which shall be the first day of the 7584

calendar quarter. A resolution proposing to levy a tax at a rate 7585
that would cause the rate levied under this section to exceed 7586
one per cent may not be adopted as an emergency measure. 7587

Prior to the adoption of any resolution under this 7588
section, the board of county commissioners shall conduct two 7589
public hearings on the resolution, the second hearing to be not 7590
less than three nor more than ten days after the first. Notice 7591
of the date, time, and place of the hearings shall be given by 7592
publication in a newspaper of general circulation in the county, 7593
or as provided in section 7.16 of the Revised Code, once a week 7594
on the same day of the week for two consecutive weeks, the 7595
second publication being not less than ten nor more than thirty 7596
days prior to the first hearing. 7597

Except as provided in division (B) (1) or (3) of this 7598
section, the resolution shall be subject to a referendum as 7599
provided in sections 305.31 to 305.41 of the Revised Code. 7600

If a petition for a referendum is filed, the county 7601
auditor with whom the petition was filed shall, within five 7602
days, notify the board of county commissioners and the tax 7603
commissioner of the filing of the petition by certified mail. If 7604
the board of elections with which the petition was filed 7605
declares the petition invalid, the board of elections, within 7606
five days, shall notify the board of county commissioners and 7607
the tax commissioner of that declaration by certified mail. If 7608
the petition is declared to be invalid, the effective date of 7609
the tax or increased rate of tax levied by this section shall be 7610
the first day of a calendar quarter following the expiration of 7611
sixty-five days from the date the commissioner receives notice 7612
from the board of elections that the petition is invalid. 7613

(B) (1) A resolution that is not adopted as an emergency 7614

measure may direct the board of elections to submit the question 7615
of levying the tax or increasing the rate of tax to the electors 7616
of the county at a special election held on the date specified 7617
by the board of county commissioners in the resolution, provided 7618
that the election occurs not less than ninety days after a 7619
certified copy of such resolution is transmitted to the board of 7620
elections and the election is not held in August of any year. A 7621
resolution proposing to levy a tax at a rate that would cause 7622
the rate levied under this section to exceed one per cent may 7623
not go into effect unless the question is submitted to electors 7624
under this division. Upon transmission of the resolution to the 7625
board of elections, the board of county commissioners shall 7626
notify the tax commissioner in writing of the levy question to 7627
be submitted to the electors. No resolution adopted under this 7628
division shall go into effect unless approved by a majority of 7629
those voting upon it, and, except as provided in division (B) (3) 7630
of this section, shall become effective on the first day of a 7631
calendar quarter following the expiration of sixty-five days 7632
from the date the tax commissioner receives notice from the 7633
board of elections of the affirmative vote. 7634

(2) A resolution that is adopted as an emergency measure 7635
shall go into effect as provided in division (A) of this 7636
section, but may direct the board of elections to submit the 7637
question of repealing the tax or increase in the rate of the tax 7638
to the electors of the county at the next general election in 7639
the county occurring not less than ninety days after a certified 7640
copy of the resolution is transmitted to the board of elections. 7641
Upon transmission of the resolution to the board of elections, 7642
the board of county commissioners shall notify the tax 7643
commissioner in writing of the levy question to be submitted to 7644
the electors. The ballot question shall be the same as that 7645

prescribed in section 5739.022 of the Revised Code. The board of elections shall notify the board of county commissioners and the tax commissioner of the result of the election immediately after the result has been declared. If a majority of the qualified electors voting on the question of repealing the tax or increase in the rate of the tax vote for repeal of the tax or repeal of the increase, the board of county commissioners, on the first day of a calendar quarter following the expiration of sixty-five days after the date the board and tax commissioner receive notice of the result of the election, shall, in the case of a repeal of the tax, cease to levy the tax, or, in the case of a repeal of an increase in the rate of the tax, cease to levy the increased rate and levy the tax at the rate at which it was imposed immediately prior to the increase in rate.

(3) If a vendor makes a sale in this state by printed catalog and the consumer computed the tax on the sale based on local rates published in the catalog, any tax levied or repealed or rate changed under this section shall not apply to such a sale until the first day of a calendar quarter following the expiration of one hundred twenty days from the date of notice by the tax commissioner pursuant to division (H) of this section.

(C) If a resolution is rejected at a referendum or if a resolution adopted after January 1, 1982, as an emergency measure is repealed by the electors pursuant to division (B) (2) of this section or section 5739.022 of the Revised Code, then for one year after the date of the election at which the resolution was rejected or repealed the board of county commissioners may not adopt any resolution authorized by this section as an emergency measure.

(D) The board of county commissioners, at any time while a

tax levied under this section is in effect, may by resolution 7676
reduce the rate at which the tax is levied to a lower rate 7677
authorized by this section. Any reduction in the rate at which 7678
the tax is levied shall be made effective on the first day of a 7679
calendar quarter next following the sixty-fifth day after a 7680
certified copy of the resolution is delivered to the tax 7681
commissioner. 7682

(E) The tax on every retail sale subject to a tax levied 7683
pursuant to this section shall be in addition to the tax levied 7684
by section 5739.02 of the Revised Code and any tax levied 7685
pursuant to section 5739.023 or 5739.026 of the Revised Code. 7686

A county that levies a tax pursuant to this section shall 7687
levy a tax at the same rate pursuant to section 5741.021 of the 7688
Revised Code. 7689

The additional tax levied by the county shall be collected 7690
pursuant to section 5739.025 of the Revised Code. If the 7691
additional tax or some portion thereof is levied for the purpose 7692
of criminal and administrative justice services or specifically 7693
for the purpose of constructing, operating, acquiring, 7694
equipping, or repairing a detention facility, the revenue from 7695
the tax, or the amount or rate apportioned to that purpose, 7696
shall be credited to one or more special funds created in the 7697
county treasury for receipt of that revenue. 7698

Any tax levied pursuant to this section is subject to the 7699
exemptions provided in section 5739.02 of the Revised Code and 7700
in addition shall not be applicable to sales not within the 7701
taxing power of a county under the Constitution of the United 7702
States or the Ohio Constitution. 7703

(F) For purposes of this section, a copy of a resolution 7704

is "certified" when it contains a written statement attesting 7705
that the copy is a true and exact reproduction of the original 7706
resolution. 7707

(G) If a board of commissioners intends to adopt a 7708
resolution to levy a tax in whole or in part for the purpose of 7709
criminal and administrative justice services, the board shall 7710
prepare and make available at the first public hearing at which 7711
the resolution is considered a statement containing the 7712
following information: 7713

(1) For each of the two preceding fiscal years, the amount 7714
of expenditures made by the county from the county general fund 7715
for the purpose of criminal and administrative justice services; 7716

(2) For the fiscal year in which the resolution is 7717
adopted, the board's estimate of the amount of expenditures to 7718
be made by the county from the county general fund for the 7719
purpose of criminal and administrative justice services; 7720

(3) For each of the two fiscal years after the fiscal year 7721
in which the resolution is adopted, the board's preliminary plan 7722
for expenditures to be made from the county general fund for the 7723
purpose of criminal and administrative justice services, both 7724
under the assumption that the tax will be imposed for that 7725
purpose and under the assumption that the tax would not be 7726
imposed for that purpose, and for expenditures to be made from 7727
the special fund created under division (E) of this section 7728
under the assumption that the tax will be imposed for that 7729
purpose. 7730

The board shall prepare the statement and the preliminary 7731
plan using the best information available to the board at the 7732
time the statement is prepared. Neither the statement nor the 7733

preliminary plan shall be used as a basis to challenge the 7734
validity of the tax in any court of competent jurisdiction, nor 7735
shall the statement or preliminary plan limit the authority of 7736
the board to appropriate, pursuant to section 5705.38 of the 7737
Revised Code, an amount different from that specified in the 7738
preliminary plan. 7739

(H) Upon receipt from a board of county commissioners of a 7740
certified copy of a resolution required by division (A) or (D) 7741
of this section, or from the board of elections of a notice of 7742
the results of an election required by division (A) or (B) (1) or 7743
(2) of this section, the tax commissioner shall provide notice 7744
of a tax rate change in a manner that is reasonably accessible 7745
to all affected vendors. The commissioner shall provide this 7746
notice at least sixty days prior to the effective date of the 7747
rate change. The commissioner, by rule, may establish the method 7748
by which notice will be provided. 7749

(I) As used in this section: 7750

(1) "Criminal and administrative justice services" means 7751
the exercise by the county sheriff of all powers and duties 7752
vested in that office by law; the exercise by the county 7753
prosecuting attorney of all powers and duties vested in that 7754
office by law; the exercise by any court in the county of all 7755
powers and duties vested in that court; the exercise by the 7756
clerk of the court of common pleas, any clerk of a municipal 7757
court having jurisdiction throughout the county, or the clerk of 7758
any county court of all powers and duties vested in the clerk by 7759
law except, in the case of the clerk of the court of common 7760
pleas, the titling of motor vehicles or watercraft pursuant to 7761
Chapter 1548. or 4505. of the Revised Code; the exercise by the 7762
county coroner of all powers and duties vested in that office by 7763

law; making payments to any other public agency or a private, 7764
nonprofit agency, the purposes of which in the county include 7765
the diversion, adjudication, detention, or rehabilitation of 7766
criminals or juvenile offenders; the operation and maintenance 7767
of any detention facility; and the construction, acquisition, 7768
equipping, or repair of such a detention facility. 7769

(2) "Detention facility" has the same meaning as in 7770
section 2921.01 of the Revised Code. 7771

(3) "Construction, operation, acquisition, equipping, or 7772
repair" of a detention facility includes the payment of any debt 7773
charges incurred in the issuance of securities pursuant to 7774
Chapter 133. of the Revised Code for the purpose of 7775
constructing, acquiring, equipping, or repairing such a 7776
facility. 7777

Sec. 5739.023. (A) (1) For the purpose of providing 7778
additional general revenues for a transit authority, funding a 7779
regional transportation improvement project under section 7780
5595.06 of the Revised Code, or funding public infrastructure 7781
projects as described in section 306.353 of the Revised Code, 7782
and to pay the expenses of administering such levy, any transit 7783
authority may levy a tax upon every retail sale made in the 7784
territory of the transit authority, except sales of watercraft 7785
and outboard motors required to be titled pursuant to Chapter 7786
1548. of the Revised Code and sales of motor vehicles and 7787
marijuana, and may increase the rate of an existing tax. The 7788
rate of any tax levied pursuant to this section shall be a 7789
multiple of one-twentieth of one per cent. The rate shall not 7790
exceed one and one-half per cent minus the amount by which the 7791
rate levied under section 5739.021 of the Revised Code by a 7792
county located in the territory of the transit authority exceeds 7793

one per cent. The tax shall be levied and the rate increased 7794
pursuant to a resolution of the legislative authority of the 7795
transit authority and a certified copy of the resolution shall 7796
be delivered by the fiscal officer to the board of elections as 7797
provided in section 3505.071 of the Revised Code and to the tax 7798
commissioner. The resolution shall specify the number of years 7799
for which the tax is to be in effect or that the tax is for a 7800
continuing period of time, the purpose or purposes of the levy, 7801
and the date of the election on the question of the tax pursuant 7802
to section 306.70 of the Revised Code. The board of elections 7803
shall certify the results of the election to the transit 7804
authority and tax commissioner. 7805

A resolution adopted under this section may not specify 7806
that the sole purpose of the tax is to fund infrastructure 7807
projects as described in section 306.353 of the Revised Code; 7808
that purpose must be combined with the purpose of providing 7809
additional general revenues for the transit authority, funding a 7810
regional transportation improvement project under section 7811
5595.06 of the Revised Code, or both. The resolution may specify 7812
the percentage of the proceeds of the tax that will be allocated 7813
among each of the purposes for which the tax is to be levied. If 7814
one of the purposes of the tax is to provide general revenue for 7815
the transit authority, the resolution may identify specific 7816
projects, functions, or other uses to which that general revenue 7817
will be allocated and the percentage of the tax proceeds to be 7818
allocated to each of those projects, functions, or other uses. 7819

(2) Except as provided in division (C) of this section, 7820
the tax levied by the resolution shall become effective on the 7821
first day of a calendar quarter next following the sixty-fifth 7822
day following the date the tax commissioner receives from the 7823
board of elections the certification of the results of the 7824

election on the question of the tax. 7825

(B) The legislative authority may, at any time while the 7826
tax is in effect, by resolution fix the rate of the tax at any 7827
rate authorized by this section and not in excess of that 7828
approved by the voters pursuant to section 306.70 of the Revised 7829
Code. Except as provided in division (C) of this section, any 7830
change in the rate of the tax shall be made effective on the 7831
first day of a calendar quarter next following the sixty-fifth 7832
day following the date the tax commissioner receives the 7833
certification of the resolution; provided, that in any case 7834
where bonds, or notes in anticipation of bonds, of a regional 7835
transit authority have been issued under section 306.40 of the 7836
Revised Code without a vote of the electors while the tax 7837
proposed to be reduced was in effect, the board of trustees of 7838
the regional transit authority shall continue to levy and 7839
collect under authority of the original election authorizing the 7840
tax a rate of tax that the board of trustees reasonably 7841
estimates will produce an amount in that year equal to the 7842
amount of principal of and interest on those bonds as is payable 7843
in that year. 7844

(C) Upon receipt from the board of elections of the 7845
certification of the results of the election required by 7846
division (A) of this section, or from the legislative authority 7847
of the certification of a resolution under division (B) of this 7848
section, the tax commissioner shall provide notice of a tax rate 7849
change in a manner that is reasonably accessible to all affected 7850
vendors. The commissioner shall provide this notice at least 7851
sixty days prior to the effective date of the rate change. The 7852
commissioner, by rule, may establish the method by which notice 7853
will be provided. 7854

(D) If a vendor makes a sale in this state by printed catalog and the consumer computed the tax on the sale based on local rates published in the catalog, any tax levied or rate changed under this section shall not apply to such a sale until the first day of a calendar quarter following the expiration of one hundred twenty days from the date of notice by the tax commissioner pursuant to division (C) of this section.

(E) The tax on every retail sale subject to a tax levied pursuant to this section is in addition to the tax levied by section 5739.02 of the Revised Code and any tax levied pursuant to section 5739.021 or 5739.026 of the Revised Code.

(F) The additional tax levied by the transit authority shall be collected pursuant to section 5739.025 of the Revised Code.

(G) Any tax levied pursuant to this section is subject to the exemptions provided in section 5739.02 of the Revised Code and in addition shall not be applicable to sales not within the taxing power of a transit authority under the constitution of the United States or the constitution of this state.

(H) The rate of a tax levied under this section is subject to reduction under section 5739.028 of the Revised Code, if a ballot question is approved by voters pursuant to that section.

Sec. 5739.026. (A) A board of county commissioners may levy a tax on every retail sale in the county, except sales of watercraft and outboard motors required to be titled pursuant to Chapter 1548. of the Revised Code and sales of motor vehicles and marijuana, at a rate of not more than one-half of one per cent and may increase the rate of an existing tax to not more than one-half of one per cent to pay the expenses of

administering the tax and, except as provided in division (A) (6) 7884
of this section, for any one or more of the following purposes 7885
provided that the aggregate levy for all such purposes does not 7886
exceed one-half of one per cent: 7887

(1) To provide additional revenues for the payment of 7888
bonds or notes issued in anticipation of bonds issued by a 7889
convention facilities authority established by the board of 7890
county commissioners under Chapter 351. of the Revised Code and 7891
to provide additional operating revenues for the convention 7892
facilities authority; 7893

(2) To provide additional revenues for a transit authority 7894
operating in the county; 7895

(3) To provide additional revenue for the county's general 7896
fund; 7897

(4) To provide additional revenue for permanent 7898
improvements to be distributed by the community improvements 7899
board in accordance with section 307.283 and to pay principal, 7900
interest, and premium on bonds issued under section 307.284 of 7901
the Revised Code; 7902

(5) To provide additional revenue for the acquisition, 7903
construction, equipping, or repair of any specific permanent 7904
improvement or any class or group of permanent improvements, 7905
which improvement or class or group of improvements shall be 7906
enumerated in the resolution required by division (D) of this 7907
section, and to pay principal, interest, premium, and other 7908
costs associated with the issuance of bonds or notes in 7909
anticipation of bonds issued pursuant to Chapter 133. of the 7910
Revised Code for the acquisition, construction, equipping, or 7911
repair of the specific permanent improvement or class or group 7912

of permanent improvements; 7913

(6) To provide revenue for the implementation and 7914
operation of a 9-1-1 system in the county. If the tax is levied 7915
or the rate increased exclusively for such purpose, the tax 7916
shall not be levied or the rate increased for more than five 7917
years. At the end of the last year the tax is levied or the rate 7918
increased, any balance remaining in the special fund established 7919
for such purpose shall remain in that fund and be used 7920
exclusively for such purpose until the fund is completely 7921
expended, and, notwithstanding section 5705.16 of the Revised 7922
Code, the board of county commissioners shall not petition for 7923
the transfer of money from such special fund, and the tax 7924
commissioner shall not approve such a petition. 7925

If the tax is levied or the rate increased for such 7926
purpose for more than five years, the board of county 7927
commissioners also shall levy the tax or increase the rate of 7928
the tax for one or more of the purposes described in divisions 7929
(A) (1) to (5) of this section and shall prescribe the method for 7930
allocating the revenues from the tax each year in the manner 7931
required by division (C) of this section. 7932

(7) To provide additional revenue for the operation or 7933
maintenance of a detention facility, as that term is defined 7934
under division (F) of section 2921.01 of the Revised Code; 7935

(8) To provide revenue to finance the construction or 7936
renovation of a sports facility, but only if the tax is levied 7937
for that purpose in the manner prescribed by section 5739.028 of 7938
the Revised Code. 7939

As used in division (A) (8) of this section: 7940

(a) "Sports facility" means a facility intended to house 7941

major league professional athletic teams. 7942

(b) "Constructing" or "construction" includes providing 7943
fixtures, furnishings, and equipment. 7944

(9) To provide additional revenue for the acquisition of 7945
agricultural easements, as defined in section 5301.67 of the 7946
Revised Code; to pay principal, interest, and premium on bonds 7947
issued under section 133.60 of the Revised Code; and for the 7948
supervision and enforcement of agricultural easements held by 7949
the county; 7950

(10) To provide revenue for the provision of ambulance, 7951
paramedic, or other emergency medical services; 7952

(11) To provide revenue for the operation of a lake 7953
facilities authority and the remediation of an impacted 7954
watershed by a lake facilities authority, as provided in Chapter 7955
353. of the Revised Code; 7956

(12) To provide additional revenue for a regional 7957
transportation improvement project under section 5595.06 of the 7958
Revised Code. 7959

Pursuant to section 755.171 of the Revised Code, a board 7960
of county commissioners may pledge and contribute revenue from a 7961
tax levied for the purpose of division (A) (5) of this section to 7962
the payment of debt charges on bonds issued under section 755.17 7963
of the Revised Code. 7964

The rate of tax shall be a multiple of one-twentieth of 7965
one per cent, unless a portion of the rate of an existing tax 7966
levied under section 5739.023 of the Revised Code has been 7967
reduced, and the rate of tax levied under this section has been 7968
increased, pursuant to section 5739.028 of the Revised Code, in 7969
which case the aggregate of the rates of tax levied under this 7970

section and section 5739.023 of the Revised Code shall be a 7971
multiple of one-twentieth of one per cent. 7972

The tax shall be levied and the rate increased pursuant to 7973
a resolution adopted by a majority of the members of the board. 7974
The board shall deliver a certified copy of the resolution to 7975
the tax commissioner, not later than the sixty-fifth day prior 7976
to the date on which the tax is to become effective, which shall 7977
be the first day of a calendar quarter. 7978

Prior to the adoption of any resolution to levy the tax or 7979
to increase the rate of tax exclusively for the purpose set 7980
forth in division (A) (3) of this section, the board of county 7981
commissioners shall conduct two public hearings on the 7982
resolution, the second hearing to be no fewer than three nor 7983
more than ten days after the first. Notice of the date, time, 7984
and place of the hearings shall be given by publication in a 7985
newspaper of general circulation in the county, or as provided 7986
in section 7.16 of the Revised Code, once a week on the same day 7987
of the week for two consecutive weeks. The second publication 7988
shall be no fewer than ten nor more than thirty days prior to 7989
the first hearing. Except as provided in division (E) of this 7990
section, the resolution shall be subject to a referendum as 7991
provided in sections 305.31 to 305.41 of the Revised Code. If 7992
the resolution is adopted as an emergency measure necessary for 7993
the immediate preservation of the public peace, health, or 7994
safety, it must receive an affirmative vote of all of the 7995
members of the board of county commissioners and shall state the 7996
reasons for the necessity. 7997

If the tax is for more than one of the purposes set forth 7998
in divisions (A) (1) to (7), (9), (10), and (12) of this section, 7999
or is exclusively for one of the purposes set forth in division 8000

(A) (1), (2), (4), (5), (6), (7), (9), (10), or (12) of this 8001
section, the resolution shall not go into effect unless it is 8002
approved by a majority of the electors voting on the question of 8003
the tax. 8004

(B) The board of county commissioners shall adopt a 8005
resolution under section 351.02 of the Revised Code creating the 8006
convention facilities authority, or under section 307.283 of the 8007
Revised Code creating the community improvements board, before 8008
adopting a resolution levying a tax for the purpose of a 8009
convention facilities authority under division (A) (1) of this 8010
section or for the purpose of a community improvements board 8011
under division (A) (4) of this section. 8012

(C) (1) If the tax is to be used for more than one of the 8013
purposes set forth in divisions (A) (1) to (7), (9), (10), and 8014
(12) of this section, the board of county commissioners shall 8015
establish the method that will be used to determine the amount 8016
or proportion of the tax revenue received by the county during 8017
each year that will be distributed for each of those purposes, 8018
including, if applicable, provisions governing the reallocation 8019
of a convention facilities authority's allocation if the 8020
authority is dissolved while the tax is in effect. The 8021
allocation method may provide that different proportions or 8022
amounts of the tax shall be distributed among the purposes in 8023
different years, but it shall clearly describe the method that 8024
will be used for each year. Except as otherwise provided in 8025
division (C) (2) of this section, the allocation method 8026
established by the board is not subject to amendment during the 8027
life of the tax. 8028

(2) Subsequent to holding a public hearing on the proposed 8029
amendment, the board of county commissioners may amend the 8030

allocation method established under division (C) (1) of this 8031
section for any year, if the amendment is approved by the 8032
governing board of each entity whose allocation for the year 8033
would be reduced by the proposed amendment. In the case of a tax 8034
that is levied for a continuing period of time, the board may 8035
not so amend the allocation method for any year before the sixth 8036
year that the tax is in effect. 8037

(a) If the additional revenues provided to the convention 8038
facilities authority are pledged by the authority for the 8039
payment of convention facilities authority revenue bonds for as 8040
long as such bonds are outstanding, no reduction of the 8041
authority's allocation of the tax shall be made for any year 8042
except to the extent that the reduced authority allocation, when 8043
combined with the authority's other revenues pledged for that 8044
purpose, is sufficient to meet the debt service requirements for 8045
that year on such bonds. 8046

(b) If the additional revenues provided to the county are 8047
pledged by the county for the payment of bonds or notes 8048
described in division (A) (4) or (5) of this section, for as long 8049
as such bonds or notes are outstanding, no reduction of the 8050
county's or the community improvements board's allocation of the 8051
tax shall be made for any year, except to the extent that the 8052
reduced county or community improvements board allocation is 8053
sufficient to meet the debt service requirements for that year 8054
on such bonds or notes. 8055

(c) If the additional revenues provided to the transit 8056
authority are pledged by the authority for the payment of 8057
revenue bonds issued under section 306.37 of the Revised Code, 8058
for as long as such bonds are outstanding, no reduction of the 8059
authority's allocation of tax shall be made for any year, except 8060

to the extent that the authority's reduced allocation, when 8061
combined with the authority's other revenues pledged for that 8062
purpose, is sufficient to meet the debt service requirements for 8063
that year on such bonds. 8064

(d) If the additional revenues provided to the county are 8065
pledged by the county for the payment of bonds or notes issued 8066
under section 133.60 of the Revised Code, for so long as the 8067
bonds or notes are outstanding, no reduction of the county's 8068
allocation of the tax shall be made for any year, except to the 8069
extent that the reduced county allocation is sufficient to meet 8070
the debt service requirements for that year on the bonds or 8071
notes. 8072

(D) (1) The resolution levying the tax or increasing the 8073
rate of tax shall state the rate of the tax or the rate of the 8074
increase; the purpose or purposes for which it is to be levied; 8075
the number of years for which it is to be levied or that it is 8076
for a continuing period of time; the allocation method required 8077
by division (C) of this section; and if required to be submitted 8078
to the electors of the county under division (A) of this 8079
section, the date of the election at which the proposal shall be 8080
submitted to the electors of the county, which shall be not less 8081
than ninety days after the certification of a copy of the 8082
resolution to the board of elections and, if the tax is to be 8083
levied exclusively for the purpose set forth in division (A) (3) 8084
of this section, shall not occur in August of any year. Upon 8085
certification of the resolution to the board of elections, the 8086
board of county commissioners shall notify the tax commissioner 8087
in writing of the levy question to be submitted to the electors. 8088
If approved by a majority of the electors, the tax shall become 8089
effective on the first day of a calendar quarter next following 8090
the sixty-fifth day following the date the board of county 8091

commissioners and tax commissioner receive from the board of 8092
elections the certification of the results of the election, 8093
except as provided in division (E) of this section. 8094

(2) (a) A resolution specifying that the tax is to be used 8095
exclusively for the purpose set forth in division (A) (3) of this 8096
section that is not adopted as an emergency measure may direct 8097
the board of elections to submit the question of levying the tax 8098
or increasing the rate of the tax to the electors of the county 8099
at a special election held on the date specified by the board of 8100
county commissioners in the resolution, provided that the 8101
election occurs not less than ninety days after the resolution 8102
is certified to the board of elections and the election is not 8103
held in August of any year. Upon certification of the resolution 8104
to the board of elections, the board of county commissioners 8105
shall notify the tax commissioner in writing of the levy 8106
question to be submitted to the electors. No resolution adopted 8107
under division (D) (2) (a) of this section shall go into effect 8108
unless approved by a majority of those voting upon it and, 8109
except as provided in division (E) of this section, not until 8110
the first day of a calendar quarter following the expiration of 8111
sixty-five days from the date the tax commissioner receives 8112
notice from the board of elections of the affirmative vote. 8113

(b) A resolution specifying that the tax is to be used 8114
exclusively for the purpose set forth in division (A) (3) of this 8115
section that is adopted as an emergency measure shall become 8116
effective as provided in division (A) of this section, but may 8117
direct the board of elections to submit the question of 8118
repealing the tax or increase in the rate of the tax to the 8119
electors of the county at the next general election in the 8120
county occurring not less than ninety days after the resolution 8121
is certified to the board of elections. Upon certification of 8122

the resolution to the board of elections, the board of county 8123
commissioners shall notify the tax commissioner in writing of 8124
the levy question to be submitted to the electors. The ballot 8125
question shall be the same as that prescribed in section 8126
5739.022 of the Revised Code. The board of elections shall 8127
notify the board of county commissioners and the tax 8128
commissioner of the result of the election immediately after the 8129
result has been declared. If a majority of the qualified 8130
electors voting on the question of repealing the tax or increase 8131
in the rate of the tax vote for repeal of the tax or repeal of 8132
the increase, the board of county commissioners, on the first 8133
day of a calendar quarter following the expiration of sixty-five 8134
days after the date the board and tax commissioner received 8135
notice of the result of the election, shall, in the case of a 8136
repeal of the tax, cease to levy the tax, or, in the case of a 8137
repeal of an increase in the rate of the tax, cease to levy the 8138
increased rate and levy the tax at the rate at which it was 8139
imposed immediately prior to the increase in rate. 8140

(c) A board of county commissioners, by resolution, may 8141
reduce the rate of a tax levied exclusively for the purpose set 8142
forth in division (A)(3) of this section to a lower rate 8143
authorized by this section. Any such reduction shall be made 8144
effective on the first day of the calendar quarter next 8145
following the sixty-fifth day after the tax commissioner 8146
receives a certified copy of the resolution from the board. 8147

(E) If a vendor makes a sale in this state by printed 8148
catalog and the consumer computed the tax on the sale based on 8149
local rates published in the catalog, any tax levied or repealed 8150
or rate changed under this section shall not apply to such a 8151
sale until the first day of a calendar quarter following the 8152
expiration of one hundred twenty days from the date of notice by 8153

the tax commissioner pursuant to division (G) of this section. 8154

(F) The tax levied pursuant to this section shall be in 8155
addition to the tax levied by section 5739.02 of the Revised 8156
Code and any tax levied pursuant to section 5739.021 or 5739.023 8157
of the Revised Code. 8158

A county that levies a tax pursuant to this section shall 8159
levy a tax at the same rate pursuant to section 5741.023 of the 8160
Revised Code. 8161

The additional tax levied by the county shall be collected 8162
pursuant to section 5739.025 of the Revised Code. 8163

Any tax levied pursuant to this section is subject to the 8164
exemptions provided in section 5739.02 of the Revised Code and 8165
in addition shall not be applicable to sales not within the 8166
taxing power of a county under the Constitution of the United 8167
States or the Ohio Constitution. 8168

(G) Upon receipt from a board of county commissioners of a 8169
certified copy of a resolution required by division (A) of this 8170
section, or from the board of elections a notice of the results 8171
of an election required by division (D) (1), (2) (a), (b), or (c) 8172
of this section, the tax commissioner shall provide notice of a 8173
tax rate change in a manner that is reasonably accessible to all 8174
affected vendors. The commissioner shall provide this notice at 8175
least sixty days prior to the effective date of the rate change. 8176
The commissioner, by rule, may establish the method by which 8177
notice will be provided. 8178

Sec. 5739.21. (A) One hundred per cent of all money 8179
deposited into the state treasury under sections 5739.01 to 8180
5739.31 of the Revised Code that is not required to be 8181
distributed as provided in section 5739.102 or 5739.214 of the 8182

Revised Code or division (B) of this section shall be credited 8183
to the general revenue fund. 8184

(B) (1) In any case where any county or transit authority 8185
has levied a tax or taxes pursuant to section 5739.021, 8186
5739.023, or 5739.026 of the Revised Code, the tax commissioner 8187
shall, within forty-five days after the end of each month, 8188
determine and certify to the director of budget and management 8189
the amount of the proceeds of such tax or taxes received during 8190
that month from billings and assessments, or associated with tax 8191
returns or reports filed during that month, to be returned to 8192
the county or transit authority levying the tax or taxes. The 8193
amount to be returned to each county and transit authority shall 8194
be a fraction of the aggregate amount of money collected with 8195
respect to each area in which one or more of such taxes are 8196
concurrently in effect with the tax levied by section 5739.02 of 8197
the Revised Code. The numerator of the fraction is the rate of 8198
the tax levied by the county or transit authority and the 8199
denominator of the fraction is the aggregate rate of such taxes 8200
applicable to such area. The amount to be returned to each 8201
county or transit authority shall be reduced by the amount of 8202
any refunds of county or transit authority tax paid pursuant to 8203
section 5739.07 of the Revised Code during the same month, or 8204
transfers made pursuant to division (B) (2) of section 5703.052 8205
of the Revised Code. 8206

(2) On a periodic basis, using the best information 8207
available, the tax commissioner shall distribute any amount of a 8208
county or transit authority tax that cannot be distributed under 8209
division (B) (1) of this section. Through audit or other means, 8210
the commissioner shall attempt to obtain the information 8211
necessary to make the distribution as provided under that 8212
division and, on receipt of that information, shall make 8213

adjustments to distributions previously made under this 8214
division. 8215

(3) Eight and thirty-three one-hundredths of one per cent 8216
of the revenue collected from the tax due under division (A) of 8217
section 5739.029 of the Revised Code shall be distributed to the 8218
county where the sale of the motor vehicle is situated under 8219
section 5739.033 of the Revised Code. The amount to be so 8220
distributed to the county shall be apportioned on the basis of 8221
the rates of taxes the county levies pursuant to sections 8222
5739.021 and 5739.026 of the Revised Code, as applicable, and 8223
shall be credited to the funds of the county as provided in 8224
divisions (A) and (B) of section 5739.211 of the Revised Code. 8225

(C) The aggregate amount to be returned to any county or 8226
transit authority shall be reduced by one per cent, which shall 8227
be certified directly to the credit of the local sales tax 8228
administrative fund, which is hereby created in the state 8229
treasury. For the purpose of determining the amount to be 8230
returned to a county and transit authority in which the rate of 8231
tax imposed by the transit authority has been reduced under 8232
section 5739.028 of the Revised Code, the tax commissioner shall 8233
use the respective rates of tax imposed by the county or transit 8234
authority that results from the change in the rates authorized 8235
under that section. 8236

(D) The director of budget and management shall transfer, 8237
from the same funds and in the same proportions specified in 8238
division (A) of this section, to the permissive tax distribution 8239
fund created by division (B) (1) of section 4301.423 of the 8240
Revised Code and to the local sales tax administrative fund, the 8241
amounts certified by the tax commissioner. The tax commissioner 8242
shall then, on or before the twentieth day of the month in which 8243

such certification is made, provide for payment of such 8244
respective amounts to the county treasurer and to the fiscal 8245
officer of the transit authority levying the tax or taxes. The 8246
amount transferred to the local sales tax administrative fund is 8247
for use by the tax commissioner in defraying costs incurred in 8248
administering such taxes levied by a county or transit 8249
authority. 8250

Sec. 5739.214. (A) For the purpose of receiving, 8251
distributing, and accounting for amounts collected from the tax 8252
imposed under section 5739.02 of the Revised Code from the sale 8253
of marijuana and under section 5741.02 of the Revised Code from 8254
the storage, use, or other consumption of marijuana, the 8255
following funds are created in the state treasury: 8256

(1) The marijuana receipts fund; 8257

(2) The illegal drug trafficking enforcement fund, which 8258
the department of public safety shall use to combat illegal drug 8259
trafficking in this state; 8260

(3) The marijuana profits education fund, which shall be 8261
used, as determined in appropriations made by the general 8262
assembly, for the support of education for students in grades 8263
kindergarten through twelve; 8264

(4) The chemical dependency rehabilitation fund, which the 8265
department of mental health and addiction services shall use to 8266
assist individuals in this state suffering from chemical 8267
dependency or substance abuse. 8268

(B) All of the following shall be deposited into the 8269
marijuana receipts fund: 8270

(1) All amounts collected from the tax levied under 8271
section 5739.02 of the Revised Code from the sale of marijuana; 8272

(2) All amounts collected from the tax levied under 8273
section 5741.02 of the Revised Code from the storage, use, or 8274
other consumption of marijuana. 8275

(C) From the marijuana receipts fund, the director of 8276
budget and management shall transfer as needed to the tax refund 8277
fund amounts equal to the refunds certified by the tax 8278
commissioner under sections 5739.07 and 5741.10 of the Revised 8279
Code of any amounts described in division (B) of this section. 8280

(D) After making any transfers required by divisions (C) 8281
of this section, but not later than the fifteenth day of each 8282
month, the director of budget and management shall credit all 8283
amounts remaining in the marijuana receipts fund as follows: 8284

(1) Twenty-five per cent to the general revenue fund; 8285

(2) Twenty-five per cent to the marijuana profits 8286
education fund; 8287

(3) Twelve and one-half per cent to municipal corporations 8288
that include at least one marijuana retail store in their 8289
territories, allocated in proportion to the number of marijuana 8290
retail stores in each municipal corporation; 8291

(4) Twelve and one-half per cent to counties that include 8292
at least one marijuana retail store in their territory, 8293
allocated in proportion to the number of marijuana retail stores 8294
in each county; 8295

(5) Twelve and one-half per cent to the illegal drug 8296
trafficking enforcement fund; 8297

(6) Twelve and one-half per cent to the chemical 8298
dependency rehabilitation fund. 8299

(E) All investment earnings of funds created in this 8300

section shall be credited back to them. 8301

Sec. 5741.01. As used in this chapter: 8302

(A) "Person" includes individuals, receivers, assignees, 8303
trustees in bankruptcy, estates, firms, partnerships, 8304
associations, joint-stock companies, joint ventures, clubs, 8305
societies, corporations, business trusts, governments, and 8306
combinations of individuals of any form. 8307

(B) "Storage" means and includes any keeping or retention 8308
in this state for use or other consumption in this state. 8309

(C) "Use" means and includes the exercise of any right or 8310
power incidental to the ownership of the thing used. A thing is 8311
also "used" in this state if its consumer gives or otherwise 8312
distributes it, without charge, to recipients in this state. 8313

(D) "Purchase" means acquired or received for a 8314
consideration, whether such acquisition or receipt was effected 8315
by a transfer of title, or of possession, or of both, or a 8316
license to use or consume; whether such transfer was absolute or 8317
conditional, and by whatever means the transfer was effected; 8318
and whether the consideration was money, credit, barter, or 8319
exchange. Purchase includes production, even though the article 8320
produced was used, stored, or consumed by the producer. The 8321
transfer of copyrighted motion picture films for exhibition 8322
purposes is not a purchase, except such films as are used solely 8323
for advertising purposes. 8324

(E) "Seller" means the person from whom a purchase is 8325
made, and includes every person engaged in this state or 8326
elsewhere in the business of selling tangible personal property 8327
or providing a service for storage, use, or other consumption or 8328
benefit in this state; and when, in the opinion of the tax 8329

commissioner, it is necessary for the efficient administration 8330
of this chapter, to regard any salesperson, representative, 8331
peddler, or canvasser as the agent of a dealer, distributor, 8332
supervisor, or employer under whom the person operates, or from 8333
whom the person obtains tangible personal property, sold by the 8334
person for storage, use, or other consumption in this state, 8335
irrespective of whether or not the person is making such sales 8336
on the person's own behalf, or on behalf of such dealer, 8337
distributor, supervisor, or employer, the commissioner may 8338
regard the person as such agent, and may regard such dealer, 8339
distributor, supervisor, or employer as the seller. A 8340
marketplace facilitator shall be treated as the "seller" with 8341
respect to all sales facilitated by the marketplace facilitator 8342
on behalf of one or more marketplace sellers on and after the 8343
first day of the first month that begins at least thirty days 8344
after the marketplace facilitator first has substantial nexus 8345
with this state. Otherwise, "seller" does not include any person 8346
to the extent the person provides a communications medium, such 8347
as, but not limited to, newspapers, magazines, radio, 8348
television, or cable television, by means of which sellers 8349
solicit purchases of their goods or services. 8350

(F) "Consumer" means any person who has purchased tangible 8351
personal property or has been provided a service for storage, 8352
use, or other consumption or benefit in this state. "Consumer" 8353
does not include a person who receives, without charge, tangible 8354
personal property or a service. 8355

A person who performs a facility management or similar 8356
service contract for a contractee is a consumer of all tangible 8357
personal property and services purchased for use in connection 8358
with the performance of such contract, regardless of whether 8359
title to any such property vests in the contractee. The purchase 8360

of such property and services is not subject to the exception 8361
for resale under division (E) of section 5739.01 of the Revised 8362
Code. 8363

(G) (1) "Price," except as provided in divisions (G) (2) to 8364
(6) of this section, has the same meaning as in division (H) (1) 8365
of section 5739.01 of the Revised Code. 8366

(2) In the case of watercraft, outboard motors, or new 8367
motor vehicles, "price" has the same meaning as in divisions (H) 8368
(2) and (3) of section 5739.01 of the Revised Code. 8369

(3) In the case of a nonresident business consumer that 8370
purchases and uses tangible personal property outside this state 8371
and subsequently temporarily stores, uses, or otherwise consumes 8372
such tangible personal property in the conduct of business in 8373
this state, the consumer or the tax commissioner may determine 8374
the price based on the value of the temporary storage, use, or 8375
other consumption, in lieu of determining the price pursuant to 8376
division (G) (1) of this section. A price determination made by 8377
the consumer is subject to review and redetermination by the 8378
commissioner. 8379

(4) In the case of tangible personal property held in this 8380
state as inventory for sale or lease, and that is temporarily 8381
stored, used, or otherwise consumed in a taxable manner, the 8382
price is the value of the temporary use. A price determination 8383
made by the consumer is subject to review and redetermination by 8384
the commissioner. 8385

(5) In the case of tangible personal property originally 8386
purchased and used by the consumer outside this state, and that 8387
becomes permanently stored, used, or otherwise consumed in this 8388
state more than six months after its acquisition by the 8389

consumer, the consumer or the commissioner may determine the 8390
price based on the current value of such tangible personal 8391
property, in lieu of determining the price pursuant to division 8392
(G) (1) of this section. A price determination made by the 8393
consumer is subject to review and redetermination by the 8394
commissioner. 8395

(6) If a consumer produces tangible personal property for 8396
sale and removes that property from inventory for the consumer's 8397
own use, the price is the produced cost of that tangible 8398
personal property. 8399

(H) "Nexus with this state" means that the seller engages 8400
in continuous and widespread solicitation of purchases from 8401
residents of this state or otherwise purposefully directs its 8402
business activities at residents of this state. 8403

(I) (1) "Substantial nexus with this state" means that the 8404
seller has sufficient contact with this state, in accordance 8405
with Section 8 of Article I of the Constitution of the United 8406
States, to allow the state to require the seller to collect and 8407
remit use tax on sales of tangible personal property or services 8408
made to consumers in this state. 8409

(2) "Substantial nexus with this state" is presumed to 8410
exist when the seller does any of the following: 8411

(a) Uses an office, distribution facility, warehouse, 8412
storage facility, or similar place of business within this 8413
state, whether operated by the seller or any other person, other 8414
than a common carrier acting in its capacity as a common 8415
carrier. 8416

(b) Regularly uses employees, agents, representatives, 8417
solicitors, installers, repairers, salespersons, or other 8418

persons in this state for the purpose of conducting the business 8419
of the seller or either to engage in a business with the same or 8420
a similar industry classification as the seller selling a 8421
similar product or line of products as the seller, or to use 8422
trademarks, service marks, or trade names in this state that are 8423
the same or substantially similar to those used by the seller. 8424

(c) Uses any person, other than a common carrier acting in 8425
its capacity as a common carrier, in this state for any of the 8426
following purposes: 8427

(i) Receiving or processing orders of the seller's goods 8428
or services; 8429

(ii) Using that person's employees or facilities in this 8430
state to advertise, promote, or facilitate sales by the seller 8431
to customers; 8432

(iii) Delivering, installing, assembling, or performing 8433
maintenance services for the seller's customers; 8434

(iv) Facilitating the seller's delivery of tangible 8435
personal property to customers in this state by allowing the 8436
seller's customers to pick up property sold by the seller at an 8437
office, distribution facility, warehouse, storage facility, or 8438
similar place of business. 8439

(d) Makes regular deliveries of tangible personal property 8440
into this state by means other than common carrier. 8441

(e) Has an affiliated person that has substantial nexus 8442
with this state. 8443

(f) Owns tangible personal property that is rented or 8444
leased to a consumer in this state, or offers tangible personal 8445
property, on approval, to consumers in this state. 8446

(g) Has gross receipts in excess of one hundred thousand 8447
dollars in the current or preceding calendar year from the sale 8448
of tangible personal property for storage, use, or consumption 8449
in this state or from providing services the benefit of which is 8450
realized in this state. 8451

(h) Engages, in the current or preceding calendar year, in 8452
two hundred or more separate transactions selling tangible 8453
personal property for storage, use, or consumption in this state 8454
or providing services the benefit of which is realized in this 8455
state. 8456

(3) A seller presumed to have substantial nexus with this 8457
state under divisions (I) (2) (a) to (f), (g), and (h) of this 8458
section may rebut that presumption by demonstrating that 8459
activities described in any of those divisions that are 8460
conducted by a person in this state on the seller's behalf are 8461
not significantly associated with the seller's ability to 8462
establish or maintain a market in this state for the seller's 8463
sales. 8464

(4) A marketplace facilitator is presumed to have 8465
substantial nexus with this state if either of the following 8466
apply in the current or preceding calendar year: 8467

(a) The aggregate gross receipts derived from sales of 8468
tangible personal property for storage, use, or consumption in 8469
this state or services the benefit of which is realized in this 8470
state, including sales made by the marketplace facilitator on 8471
its own behalf and sales facilitated by the marketplace 8472
facilitator on behalf of one or more marketplace sellers, exceed 8473
one hundred thousand dollars; 8474

(b) The marketplace facilitator engages in on its own 8475

behalf, or facilitates on behalf of one or more marketplace 8476
sellers, two hundred or more separate transactions selling 8477
tangible personal property for storage, use, or consumption in 8478
this state or services the benefit of which is realized in this 8479
state. 8480

(5) A seller that does not have substantial nexus with 8481
this state, and any affiliated person of the seller, before 8482
selling or leasing tangible personal property or services to a 8483
state agency, shall register with the tax commissioner in the 8484
same manner as a seller described in division (A)(1) of section 8485
5741.17 of the Revised Code. 8486

(6) As used in division (I) of this section: 8487

(a) "Affiliated person" means any person that is a member 8488
of the same controlled group of corporations as the seller or 8489
any other person that, notwithstanding the form of organization, 8490
bears the same ownership relationship to the seller as a 8491
corporation that is a member of the same controlled group of 8492
corporations. 8493

(b) "Controlled group of corporations" has the same 8494
meaning as in section 1563(a) of the Internal Revenue Code. 8495

(c) "State agency" has the same meaning as in section 1.60 8496
of the Revised Code. 8497

(J) "Fiscal officer" means, with respect to a regional 8498
transit authority, the secretary-treasurer thereof, and with 8499
respect to a county which is a transit authority, the fiscal 8500
officer of the county transit board appointed pursuant to 8501
section 306.03 of the Revised Code or, if the board of county 8502
commissioners operates the county transit system, the county 8503
auditor. 8504

(K) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit authority as they from time to time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county which is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(L) "Transit authority" means a regional transit authority created pursuant to section 306.31 of the Revised Code or a county in which a county transit system is created pursuant to section 306.01 of the Revised Code. For the purposes of this chapter, a transit authority must extend to at least the entire area of a single county. A transit authority which includes territory in more than one county must include all the area of the most populous county which is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(M) "Providing a service" has the same meaning as in section 5739.01 of the Revised Code.

(N) "Other consumption" includes receiving the benefits of a service.

(O) "Lease" or "rental" has the same meaning as in section 5739.01 of the Revised Code.

(P) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code.

(Q) "Marketplace facilitator" means a person that owns, operates, or controls a physical or electronic marketplace through which retail sales are facilitated on behalf of one or

more marketplace sellers, or an affiliate of such a person. 8534
"Marketplace facilitator" does not include a person that 8535
provides advertising services, including tangible personal 8536
property or services listed for sale, if the advertising service 8537
platform or forum does not engage directly or indirectly through 8538
one or more affiliated persons in the activities described in 8539
division (T) (2) of this section. 8540

(R) "Marketplace seller" means a person on behalf of which 8541
a marketplace facilitator facilitates the sale of tangible 8542
personal property for storage, use, or consumption in this state 8543
or services the benefit of which are realized in this state, 8544
regardless of whether or not the person has a substantial nexus 8545
with this state. 8546

(S) "Electronic marketplace" includes digital distribution 8547
services, digital distribution platforms, online portals, 8548
application stores, computer software applications, in-app 8549
purchase mechanisms, or other digital products. 8550

(T) A sale is "facilitated" by a marketplace facilitator 8551
on behalf of a marketplace seller if it satisfies divisions (T) 8552
(1), (2), and (3) of this section: 8553

(1) The marketplace facilitator, directly or indirectly, 8554
does any of the following: 8555

(a) Lists, makes available, or advertises the tangible 8556
personal property or services that are the subject of the sale 8557
in a physical or electronic marketplace owned, operated, or 8558
controlled by the marketplace facilitator; 8559

(b) Transmits or otherwise communicates an offer or 8560
acceptance of the sale between the marketplace seller and the 8561
purchaser in a shop, store, booth, catalog, internet site, or 8562

other similar forum; 8563

(c) Owns, rents, licenses, makes available, or operates 8564
any electronic or physical infrastructure or any property, 8565
process, method, copyright, trademark, or patent that connects 8566
the marketplace seller to the purchaser for the purpose of 8567
making sales; 8568

(d) Provides the marketplace in which the sale was made or 8569
otherwise facilitates the sale regardless of ownership or 8570
control of the tangible personal property or services that are 8571
the subject of the sale; 8572

(e) Provides software development or research and 8573
development services directly related to a physical or 8574
electronic marketplace that is involved in one or more of the 8575
activities described in division (T)(1) of this section; 8576

(f) Provides fulfillment or storage services for the 8577
marketplace seller that are related to the tangible personal 8578
property or services that are the subject of the sale; 8579

(g) Sets the price of the sale on behalf of the 8580
marketplace seller; 8581

(h) Provides or offers customer service to the marketplace 8582
seller or the marketplace seller's customers, or accepts or 8583
assists with taking orders, returns, or exchanges of the 8584
tangible personal property or services that are the subject of 8585
the sale; 8586

(i) Brands or otherwise identifies the sale as a sale of 8587
the marketplace facilitator. 8588

(2) The marketplace facilitator, directly or indirectly, 8589
does any of the following: 8590

(a) Collects the price of the tangible personal property 8591
or services sold to the consumer; 8592

(b) Provides payment processing services for the sale; 8593

(c) Collects payment in connection with the sale from the 8594
consumer through terms and conditions, agreements, or 8595
arrangements with a third party, and transmits that payment to 8596
the marketplace seller, regardless of whether the person 8597
collecting and transmitting such payment receives compensation 8598
or other consideration in exchange for the service; 8599

(d) Provides virtual currency that consumers are allowed 8600
or required to use to purchase the tangible personal property or 8601
services that are the subject of the sale. 8602

(3) The subject of the sale is tangible personal property 8603
or services other than lodging by a hotel that is or is to be 8604
furnished to transient guests. 8605

(U) "Marijuana" means marihuana as defined in section 8606
3719.01 of the Revised Code. "Marijuana" does not include 8607
medical marijuana as defined in section 3796.01 of the Revised 8608
Code. 8609

Sec. 5741.02. (A) (1) For the use of the general revenue 8610
fund of the state, an excise tax is hereby levied on the 8611
storage, use, or other consumption in this state of tangible 8612
personal property or the benefit realized in this state of any 8613
service provided. The tax shall be collected as provided in 8614
section 5739.025 of the Revised Code. The rate of the tax shall 8615
be ten per cent for the storage, use, or other consumption of 8616
marijuana and five and three-fourths per cent for the storage, 8617
use, or other consumption of any other tangible personal 8618
property and benefit realized of any service provided. 8619

(2) In the case of the lease or rental, with a fixed term 8620
of more than thirty days or an indefinite term with a minimum 8621
period of more than thirty days, of any motor vehicles designed 8622
by the manufacturer to carry a load of not more than one ton, 8623
watercraft, outboard motor, or aircraft, or of any tangible 8624
personal property, other than motor vehicles designed by the 8625
manufacturer to carry a load of more than one ton, to be used by 8626
the lessee or renter primarily for business purposes, the tax 8627
shall be collected by the seller at the time the lease or rental 8628
is consummated and shall be calculated by the seller on the 8629
basis of the total amount to be paid by the lessee or renter 8630
under the lease or rental agreement. If the total amount of the 8631
consideration for the lease or rental includes amounts that are 8632
not calculated at the time the lease or rental is executed, the 8633
tax shall be calculated and collected by the seller at the time 8634
such amounts are billed to the lessee or renter. In the case of 8635
an open-end lease or rental, the tax shall be calculated by the 8636
seller on the basis of the total amount to be paid during the 8637
initial fixed term of the lease or rental, and for each 8638
subsequent renewal period as it comes due. As used in this 8639
division, "motor vehicle" has the same meaning as in section 8640
4501.01 of the Revised Code, and "watercraft" includes an 8641
outdrive unit attached to the watercraft. 8642

(3) Except as provided in division (A) (2) of this section, 8643
in the case of a transaction, the price of which consists in 8644
whole or part of the lease or rental of tangible personal 8645
property, the tax shall be measured by the installments of those 8646
leases or rentals. 8647

(B) Each consumer, storing, using, or otherwise consuming 8648
in this state tangible personal property or realizing in this 8649
state the benefit of any service provided, shall be liable for 8650

the tax, and such liability shall not be extinguished until the 8651
tax has been paid to this state; provided, that the consumer 8652
shall be relieved from further liability for the tax if the tax 8653
has been paid to a seller in accordance with section 5741.04 of 8654
the Revised Code or prepaid by the seller in accordance with 8655
section 5741.06 of the Revised Code. 8656

(C) The tax does not apply to the storage, use, or 8657
consumption in this state of the following described tangible 8658
personal property or services, nor to the storage, use, or 8659
consumption or benefit in this state of tangible personal 8660
property or services purchased under the following described 8661
circumstances: 8662

(1) When the sale of property or service in this state is 8663
subject to the excise tax imposed by sections 5739.01 to 5739.31 8664
of the Revised Code, provided said tax has been paid; 8665

(2) Except as provided in division (D) of this section, 8666
tangible personal property or services, the acquisition of 8667
which, if made in Ohio, would be a sale not subject to the tax 8668
imposed by sections 5739.01 to 5739.31 of the Revised Code; 8669

(3) Property or services, the storage, use, or other 8670
consumption of or benefit from which this state is prohibited 8671
from taxing by the Constitution of the United States, laws of 8672
the United States, or the Constitution of this state. This 8673
exemption shall not exempt from the application of the tax 8674
imposed by this section the storage, use, or consumption of 8675
tangible personal property that was purchased in interstate 8676
commerce, but that has come to rest in this state, provided that 8677
fuel to be used or transported in carrying on interstate 8678
commerce that is stopped within this state pending transfer from 8679
one conveyance to another is exempt from the excise tax imposed 8680

by this section and section 5739.02 of the Revised Code; 8681

(4) Transient use of tangible personal property in this 8682
state by a nonresident tourist or vacationer, or a nonbusiness 8683
use within this state by a nonresident of this state, if the 8684
property so used was purchased outside this state for use 8685
outside this state and is not required to be registered or 8686
licensed under the laws of this state; 8687

(5) Tangible personal property or services rendered, upon 8688
which taxes have been paid to another jurisdiction to the extent 8689
of the amount of the tax paid to such other jurisdiction. Where 8690
the amount of the tax imposed by this section and imposed 8691
pursuant to section 5741.021, 5741.022, or 5741.023 of the 8692
Revised Code exceeds the amount paid to another jurisdiction, 8693
the difference shall be allocated between the tax imposed by 8694
this section and any tax imposed by a county or a transit 8695
authority pursuant to section 5741.021, 5741.022, or 5741.023 of 8696
the Revised Code, in proportion to the respective rates of such 8697
taxes. 8698

As used in this subdivision, "taxes paid to another 8699
jurisdiction" means the total amount of retail sales or use tax 8700
or similar tax based upon the sale, purchase, or use of tangible 8701
personal property or services rendered legally, levied by and 8702
paid to another state or political subdivision thereof, or to 8703
the District of Columbia, where the payment of such tax does not 8704
entitle the taxpayer to any refund or credit for such payment. 8705

(6) The transfer of a used manufactured home or used 8706
mobile home, as defined by section 5739.0210 of the Revised 8707
Code, made on or after January 1, 2000; 8708

(7) Drugs that are or are intended to be distributed free 8709

of charge to a practitioner licensed to prescribe, dispense, and 8710
administer drugs to a human being in the course of a 8711
professional practice and that by law may be dispensed only by 8712
or upon the order of such a practitioner; 8713

(8) Computer equipment and related software leased from a 8714
lessor located outside this state and initially received in this 8715
state on behalf of the consumer by a third party that will 8716
retain possession of such property for not more than ninety days 8717
and that will, within that ninety-day period, deliver such 8718
property to the consumer at a location outside this state. 8719
Division (C) (8) of this section does not provide exemption from 8720
taxation for any otherwise taxable charges associated with such 8721
property while it is in this state or for any subsequent 8722
storage, use, or consumption of such property in this state by 8723
or on behalf of the consumer. 8724

(9) Tangible personal property held for sale by a person 8725
but not for that person's own use and donated by that person, 8726
without charge or other compensation, to either of the 8727
following: 8728

(a) A nonprofit organization operated exclusively for 8729
charitable purposes in this state, no part of the net income of 8730
which inures to the benefit of any private shareholder or 8731
individual and no substantial part of the activities of which 8732
consists of carrying on propaganda or otherwise attempting to 8733
influence legislation; or 8734

(b) This state or any political subdivision of this state, 8735
but only if donated for exclusively public purposes. 8736

For the purposes of division (C) (9) of this section, 8737
"charitable purposes" has the same meaning as in division (B) 8738

(12) of section 5739.02 of the Revised Code. 8739

(10) Equipment stored, used, or otherwise consumed in this 8740
state by an out-of-state disaster business during a disaster 8741
response period during which the business conducts disaster work 8742
pursuant to a qualifying solicitation received by the business, 8743
provided the equipment is removed from the state before the last 8744
day of that period. All terms used in division (C) (10) of this 8745
section have the same meanings as in section 5703.94 of the 8746
Revised Code. 8747

(11) (a) Watercraft, if all of the following apply: 8748

(i) The watercraft is in this state only for storage and 8749
maintenance purposes. 8750

(ii) The watercraft is not used or stored in this state 8751
between the first day of May and the last day of September of 8752
any year. 8753

(iii) The watercraft is not required to be registered in 8754
this state under section 1547.54 of the Revised Code. 8755

(iv) The owner paid taxes to another jurisdiction on the 8756
sale, use, or consumption of the watercraft or paid sales tax on 8757
the watercraft under section 5739.027 of the Revised Code, 8758
unless the watercraft is used and titled or registered in a 8759
jurisdiction that does not impose a sales or use tax or similar 8760
excise tax on the ownership or use of the watercraft. 8761

(b) As used in division (C) (11) of this section: 8762

(i) "Taxes paid to another jurisdiction" has the same 8763
meaning as in division (C) (5) of this section. 8764

(ii) "Maintenance" means any act to preserve or improve 8765
the condition or efficiency of a watercraft including cleaning 8766

and repairing the watercraft and installing equipment, fixtures, 8767
or technology in or on the watercraft. 8768

(c) Nothing in division (C) (11) of this section exempts 8769
sales of storage of watercraft taxable under division (B) (9) of 8770
section 5739.01 of the Revised Code or sales of repair or 8771
installation of tangible personal property in or on the 8772
watercraft taxable under division (B) (3) (a) or (b) of that 8773
section. 8774

(D) The tax applies to the storage, use, or other 8775
consumption in this state of tangible personal property or 8776
services, the acquisition of which at the time of sale was 8777
excepted under division (E) of section 5739.01 of the Revised 8778
Code from the tax imposed by section 5739.02 of the Revised 8779
Code, but which has subsequently been temporarily or permanently 8780
stored, used, or otherwise consumed in a taxable manner. 8781

(E) (1) (a) If any transaction is claimed to be exempt under 8782
division (E) of section 5739.01 of the Revised Code or under 8783
section 5739.02 of the Revised Code, with the exception of 8784
divisions (B) (1) to (11) or (28) of section 5739.02 of the 8785
Revised Code, the consumer shall provide to the seller, and the 8786
seller shall obtain from the consumer, a certificate specifying 8787
the reason that the transaction is not subject to the tax. The 8788
certificate shall be in such form, and shall be provided either 8789
in a hard copy form or electronic form, as the tax commissioner 8790
prescribes. 8791

(b) A seller that obtains a fully completed exemption 8792
certificate from a consumer is relieved of liability for 8793
collecting and remitting tax on any sale covered by that 8794
certificate. If it is determined the exemption was improperly 8795
claimed, the consumer shall be liable for any tax due on that 8796

sale under this chapter. Relief under this division from 8797
liability does not apply to any of the following: 8798

(i) A seller that fraudulently fails to collect tax; 8799

(ii) A seller that solicits consumers to participate in 8800
the unlawful claim of an exemption; 8801

(iii) A seller that accepts an exemption certificate from 8802
a consumer that claims an exemption based on who purchases or 8803
who sells property or a service, when the subject of the 8804
transaction sought to be covered by the exemption certificate is 8805
actually received by the consumer at a location operated by the 8806
seller in this state, and this state has posted to its web site 8807
an exemption certificate form that clearly and affirmatively 8808
indicates that the claimed exemption is not available in this 8809
state; 8810

(iv) A seller that accepts an exemption certificate from a 8811
consumer who claims a multiple points of use exemption under 8812
division (D) of section 5739.033 of the Revised Code, if the 8813
item purchased is tangible personal property, other than 8814
prewritten computer software. 8815

(2) The seller shall maintain records, including exemption 8816
certificates, of all sales on which a consumer has claimed an 8817
exemption, and provide them to the tax commissioner on request. 8818

(3) If no certificate is provided or obtained within 8819
ninety days after the date on which the transaction is 8820
consummated, it shall be presumed that the tax applies. Failure 8821
to have so provided or obtained a certificate shall not preclude 8822
a seller, within one hundred twenty days after the tax 8823
commissioner gives written notice of intent to levy an 8824
assessment, from either establishing that the transaction is not 8825

subject to the tax, or obtaining, in good faith, a fully 8826
completed exemption certificate. 8827

(4) If a transaction is claimed to be exempt under 8828
division (B)(13) of section 5739.02 of the Revised Code, the 8829
contractor shall obtain certification of the claimed exemption 8830
from the contractee. This certification shall be in addition to 8831
an exemption certificate provided by the contractor to the 8832
seller. A contractee that provides a certification under this 8833
division shall be deemed to be the consumer of all items 8834
purchased by the contractor under the claim of exemption, if it 8835
is subsequently determined that the exemption is not properly 8836
claimed. The certification shall be in such form as the tax 8837
commissioner prescribes. 8838

(F) A seller who files a petition for reassessment 8839
contesting the assessment of tax on transactions for which the 8840
seller obtained no valid exemption certificates, and for which 8841
the seller failed to establish that the transactions were not 8842
subject to the tax during the one-hundred-twenty-day period 8843
allowed under division (E) of this section, may present to the 8844
tax commissioner additional evidence to prove that the 8845
transactions were exempt. The seller shall file such evidence 8846
within ninety days of the receipt by the seller of the notice of 8847
assessment, except that, upon application and for reasonable 8848
cause, the tax commissioner may extend the period for submitting 8849
such evidence thirty days. 8850

(G) For the purpose of the proper administration of 8851
sections 5741.01 to 5741.22 of the Revised Code, and to prevent 8852
the evasion of the tax hereby levied, it shall be presumed that 8853
any use, storage, or other consumption of tangible personal 8854
property in this state is subject to the tax until the contrary 8855

is established. 8856

(H) The tax collected by the seller from the consumer 8857
under this chapter is not part of the price, but is a tax 8858
collection for the benefit of the state, and of counties levying 8859
an additional use tax pursuant to section 5741.021 or 5741.023 8860
of the Revised Code and of transit authorities levying an 8861
additional use tax pursuant to section 5741.022 of the Revised 8862
Code. Except for the discount authorized under section 5741.12 8863
of the Revised Code and the effects of any rounding pursuant to 8864
section 5703.055 of the Revised Code, no person other than the 8865
state or such a county or transit authority shall derive any 8866
benefit from the collection of such tax. 8867

Sec. 5741.021. (A) For the purpose of providing additional 8868
general revenues for the county, supporting criminal and 8869
administrative justice services in the county, funding a 8870
regional transportation improvement project under section 8871
5595.06 of the Revised Code, or any combination of the 8872
foregoing, and to pay the expenses of administering such levy, 8873
any county which levies a tax pursuant to section 5739.021 of 8874
the Revised Code shall levy a tax at the same rate levied 8875
pursuant to section 5739.021 of the Revised Code on the storage, 8876
use, or other consumption in the county of the following: 8877

(1) Motor vehicles, and watercraft and outboard motors 8878
required to be titled in the county pursuant to Chapter 1548. of 8879
the Revised Code and acquired by a transaction subject to the 8880
tax imposed by section 5739.02 of the Revised Code; 8881

(2) In addition to the tax imposed by section 5741.02 of 8882
the Revised Code, tangible personal property, except marijuana, 8883
and services subject to the tax levied by this state as provided 8884
in section 5741.02 of the Revised Code, and tangible personal 8885

property, except marijuana, and services purchased in another 8886
county within this state by a transaction subject to the tax 8887
imposed by section 5739.02 of the Revised Code. 8888

The tax shall be levied pursuant to a resolution of the 8889
board of county commissioners which shall be adopted after 8890
publication of notice and hearing in the same manner as provided 8891
in section 5739.021 of the Revised Code. Such resolution shall 8892
be adopted and shall become effective on the same day as the 8893
resolution adopted by the board of county commissioners levying 8894
a sales tax pursuant to section 5739.021 of the Revised Code and 8895
shall remain in effect until such sales tax is repealed. 8896

(B) The tax levied pursuant to this section on the 8897
storage, use, or other consumption of tangible personal property 8898
and on the benefit of a service realized shall be in addition to 8899
the tax levied by section 5741.02 of the Revised Code and, 8900
except as provided in division (D) of this section, any tax 8901
levied pursuant to sections 5741.022 and 5741.023 of the Revised 8902
Code. 8903

(C) The additional tax levied by the county shall be 8904
collected pursuant to section 5739.025 of the Revised Code. If 8905
the additional tax or some portion thereof is levied for the 8906
purpose of criminal and administrative justice services, the 8907
revenue from the tax, or the amount or rate apportioned to that 8908
purpose, shall be credited to a special fund created in the 8909
county treasury for receipt of that revenue. 8910

(D) The tax levied pursuant to this section shall not be 8911
applicable to any benefit of a service realized or to any 8912
storage, use, or consumption of property not within the taxing 8913
power of a county under the constitution of the United States or 8914
the constitution of this state, or to property or services on 8915

which a tax levied by a county or transit authority pursuant to 8916
this section or section 5739.021, 5739.023, 5739.026, 5741.022, 8917
or 5741.023 of the Revised Code has been paid, if the sum of the 8918
taxes paid pursuant to those sections is equal to or greater 8919
than the sum of the taxes due under this section and sections 8920
5741.022 and 5741.023 of the Revised Code. If the sum of the 8921
taxes paid is less than the sum of the taxes due under this 8922
section and sections 5741.022 and 5741.023 of the Revised Code, 8923
the amount of tax paid shall be credited against the amount of 8924
tax due. 8925

(E) As used in this section, "criminal and administrative 8926
justice services" has the same meaning as in section 5739.021 of 8927
the Revised Code. 8928

Sec. 5741.022. (A) For the purpose of providing additional 8929
general revenues for the transit authority, funding a regional 8930
transportation improvement project under section 5595.06 of the 8931
Revised Code, or funding public infrastructure projects as 8932
described in section 306.353 of the Revised Code, and to pay the 8933
expenses of administering such levy, any transit authority that 8934
levies a tax pursuant to section 5739.023 of the Revised Code 8935
shall levy a tax at the same rate levied pursuant to such 8936
section on the storage, use, or other consumption in the 8937
territory of the transit authority of the following: 8938

(1) Motor vehicles, and watercraft and outboard motors 8939
required to be titled in the county pursuant to Chapter 1548. of 8940
the Revised Code and acquired by a transaction subject to the 8941
tax imposed by section 5739.02 of the Revised Code; 8942

(2) In addition to the tax imposed by section 5741.02 of 8943
the Revised Code, tangible personal property, except marijuana, 8944
and services subject to the tax levied by this state as provided 8945

in section 5741.02 of the Revised Code, and tangible personal 8946
property, except marijuana, and services purchased in another 8947
county within this state by a transaction subject to the tax 8948
imposed by section 5739.02 of the Revised Code. 8949

The tax shall be in effect at the same time and at the 8950
same rate and shall be levied pursuant to the resolution of the 8951
legislative authority of the transit authority levying a sales 8952
tax pursuant to section 5739.023 of the Revised Code. 8953

(B) The tax levied pursuant to this section on the 8954
storage, use, or other consumption of tangible personal property 8955
and on the benefit of a service realized shall be in addition to 8956
the tax levied by section 5741.02 of the Revised Code and, 8957
except as provided in division (D) of this section, any tax 8958
levied pursuant to sections 5741.021 and 5741.023 of the Revised 8959
Code. 8960

(C) The additional tax levied by the authority shall be 8961
collected pursuant to section 5739.025 of the Revised Code. 8962

(D) The tax levied pursuant to this section shall not be 8963
applicable to any benefit of a service realized or to any 8964
storage, use, or consumption of property not within the taxing 8965
power of a transit authority under the constitution of the 8966
United States or the constitution of this state, or to property 8967
or services on which a tax levied by a county or transit 8968
authority pursuant to this section or section 5739.021, 8969
5739.023, 5739.026, 5741.021, or 5741.023 of the Revised Code 8970
has been paid, if the sum of the taxes paid pursuant to those 8971
sections is equal to or greater than the sum of the taxes due 8972
under this section and sections 5741.021 and 5741.023 of the 8973
Revised Code. If the sum of the taxes paid is less than the sum 8974
of the taxes due under this section and sections 5741.021 and 8975

5741.023 of the Revised Code, the amount of tax paid shall be 8976
credited against the amount of tax due. 8977

(E) The rate of a tax levied under this section is subject 8978
to reduction under section 5739.028 of the Revised Code if a 8979
ballot question is approved by voters pursuant to that section. 8980

Sec. 5741.023. (A) For the same purposes for which it has 8981
imposed a tax under section 5739.026 of the Revised Code, any 8982
county that levies a tax pursuant to such section shall levy a 8983
tax at the same rate levied pursuant to such section on the 8984
storage, use, or other consumption in the county of the 8985
following: 8986

(1) Motor vehicles, and watercraft and outboard motors 8987
required to be titled in the county pursuant to Chapter 1548. of 8988
the Revised Code, acquired by a transaction subject to the tax 8989
imposed by section 5739.02 of the Revised Code; 8990

(2) In addition to the tax imposed by section 5741.02 of 8991
the Revised Code, tangible personal property, except marijuana, 8992
and services subject to the tax levied by this state as provided 8993
in section 5741.02 of the Revised Code, and tangible personal 8994
property, except marijuana, and services purchased in another 8995
county within this state by a transaction subject to the tax 8996
imposed by section 5739.02 of the Revised Code. 8997

The tax shall be levied pursuant to a resolution of the 8998
board of county commissioners, which shall be adopted in the 8999
same manner as provided in section 5739.026 of the Revised Code. 9000
Such resolution shall be adopted and shall become effective on 9001
the same day as the resolution adopted by the board of county 9002
commissioners levying a sales tax pursuant to such section and 9003
shall remain in effect until such sales tax is repealed or 9004

expires. 9005

(B) The tax levied pursuant to this section shall be in 9006
addition to the tax levied by section 5741.02 of the Revised 9007
Code and, except as provided in division (D) of this section, 9008
any tax levied pursuant to sections 5741.021 and 5741.022 of the 9009
Revised Code. 9010

(C) The additional tax levied by the county shall be 9011
collected pursuant to section 5739.025 of the Revised Code. 9012

(D) The tax levied pursuant to this section shall not be 9013
applicable to any benefit of a service realized or to any 9014
storage, use, or consumption of property not within the taxing 9015
power of a county under the constitution of the United States or 9016
the constitution of this state, or to property or services on 9017
which tax levied by a county or transit authority pursuant to 9018
this section or section 5739.021, 5739.023, 5739.026, 5741.021, 9019
or 5741.022 of the Revised Code has been paid, if the sum of the 9020
taxes paid pursuant to those sections is equal to or greater 9021
than the sum of the taxes due under this section and sections 9022
5741.021 and 5741.022 of the Revised Code. If the sum of the 9023
taxes paid is less than the sum of the taxes due under this 9024
section and sections 5741.021 and 5741.022 of the Revised Code, 9025
the amount of tax paid shall be credited against the amount of 9026
tax due. 9027

Sec. 5741.03. (A) One hundred per cent of all money 9028
deposited into the state treasury under sections 5741.01 to 9029
5741.22 of the Revised Code that is not required to be 9030
distributed as provided in division (B) or (C) of this section 9031
shall be credited to the general revenue fund. 9032

(B) In any case where any county or transit authority has 9033

levied a tax or taxes pursuant to section 5741.021, 5741.022, or 9034
5741.023 of the Revised Code, the tax commissioner shall, within 9035
forty-five days after the end of each month, determine and 9036
certify to the director of budget and management the amount of 9037
the proceeds of such tax or taxes from billings and assessments 9038
received during that month, or shown on tax returns or reports 9039
filed during that month, to be returned to the county or transit 9040
authority levying the tax or taxes, which amounts shall be 9041
determined in the manner provided in section 5739.21 of the 9042
Revised Code. The director of budget and management shall 9043
transfer, from the general revenue fund, to the permissive tax 9044
distribution fund created by division (B) (1) of section 4301.423 9045
of the Revised Code and to the local sales tax administrative 9046
fund created by division (C) of section 5739.21 of the Revised 9047
Code, the amounts certified by the tax commissioner. The tax 9048
commissioner shall then, on or before the twentieth day of the 9049
month in which such certification is made, provide for payment 9050
of such respective amounts to the county treasurer or to the 9051
fiscal officer of the transit authority levying the tax or 9052
taxes. The amount transferred to the local sales tax 9053
administrative fund is for use by the tax commissioner in 9054
defraying costs the commissioner incurs in administering such 9055
taxes levied by a county or transit authority. 9056

(C) One hundred per cent of the money collected pursuant 9057
to the tax levied under section 5741.02 of the Revised Code for 9058
the storage, use, or other consumption of marijuana shall be 9059
credited to the marijuana receipts fund created in section 9060
5739.214 of the Revised Code. 9061

Section 2. That existing sections 109.572, 2925.02, 9062
2925.03, 2925.04, 2925.11, 2925.12, 2925.14, 2925.36, 2925.38, 9063
3796.01, 3796.02, 3796.03, 3796.032, 3796.05, 3796.06, 3796.061, 9064

3796.07, 3796.08, 3796.09, 3796.10, 3796.11, 3796.12, 3796.13, 9065
3796.14, 3796.15, 3796.16, 3796.17, 3796.18, 3796.19, 3796.20, 9066
3796.21, 3796.22, 3796.23, 3796.24, 3796.27, 3796.28, 3796.29, 9067
3796.30, 4123.34, 4510.17, 4729.24, 4729.75, 4729.772, 4729.80, 9068
4729.84, 4729.85, 4729.86, 4731.30, 4731.301, 4776.01, 5739.01, 9069
5739.02, 5739.021, 5739.023, 5739.026, 5739.21, 5741.01, 9070
5741.02, 5741.021, 5741.022, 5741.023, and 5741.03 of the 9071
Revised Code are hereby repealed. 9072

Section 3. That sections 2925.141, 3796.021, 3796.031, 9073
3796.04, 4729.771, and 4731.302 of the Revised Code are hereby 9074
repealed. 9075

Section 4. (A) Not later than two hundred forty days after 9076
the effective date of this section, the Medical Marijuana 9077
Control Program in the State Board of Pharmacy is abolished. All 9078
records of the Medical Marijuana Control Program in the State 9079
Board of Pharmacy shall be transferred to the Department of 9080
Commerce Division of Marijuana Control, and all of its other 9081
assets and liabilities relating to the Medical Marijuana Control 9082
Program shall be transferred to the Department of Commerce. The 9083
Division of Marijuana Control in the Department of Commerce is 9084
successor to, and assumes the obligations of, the Medical 9085
Marijuana Control Program in the State Board of Pharmacy. Any 9086
business commenced, but not completed by the State Board of 9087
Pharmacy Medical Marijuana Control Program two hundred forty 9088
days after the effective date of this section shall be completed 9089
by the Director of Commerce in the same manner, and with the 9090
same effect, as if completed by the State Board of Pharmacy. No 9091
validation, cure, right, privilege, remedy, obligation, or 9092
liability is lost or impaired by reason of the transfer required 9093
by this section. 9094

(B) Any license issued by the State Board of Pharmacy 9095
pursuant to section 3796.10 of the Revised Code remains in 9096
effect for the remainder of the license's term, unless otherwise 9097
suspended or revoked. Any registration issued by the State Board 9098
of Pharmacy pursuant to section 3796.08 of the Revised Code 9099
remains in effect for the remainder of the registration's term, 9100
unless otherwise revoked. Renewals shall be conducted through 9101
the Division of Marijuana Control. 9102

(C) Any form of marijuana approved by the State Board of 9103
Pharmacy pursuant to section 3796.061 of the Revised Code as it 9104
existed prior to the effective date of the amendment to that 9105
section shall remain approved until the Department of Commerce 9106
revokes that approval. The Department of Commerce may revoke the 9107
approval of a form of marijuana made by the State Board of 9108
Pharmacy prior to that effective date. If the Department revokes 9109
approval, the Department shall notify in writing the person who 9110
filed the petition pursuant to section 3796.061 of the Revised 9111
Code and shall post notice of that revocation on the web site of 9112
the Division of Marijuana Control. 9113

(D) The rules adopted by the State Board of Pharmacy 9114
regulating the Medical Marijuana Control Program in existence on 9115
the effective date of this section continue in effect until 9116
repealed or amended by the Department of Commerce. 9117

(E) Unless removed by the Department of Commerce within 9118
sixty days after the effective date of this section, any 9119
qualifying medical conditions added by the State Medical Board 9120
pursuant to section 4731.302 of the Revised Code, as that 9121
section existed immediately prior to being repealed in this act, 9122
continues to be a qualifying medical condition. 9123

Section 5. In enacting this section, it is the intent of 9124

the General Assembly to urge the Congress of the United States 9125
to enact substantially similar legislation to H.R. 3105 of the 9126
117th Congress. In addition, it is the intent of the General 9127
Assembly to urge Congress to protect the United States 9128
Constitution Second Amendment rights of Ohioans that are engaged 9129
in the legal use of cannabis under the laws of this state. The 9130
Clerk of the Ohio House of Representatives shall send a letter 9131
to the Speaker and Minority Leader of the United States House of 9132
Representatives, the President and Minority Leader of the United 9133
States Senate, the President of the United States, the Ohio 9134
congressional delegation, and the media urging the United States 9135
Congress to enact substantially similar legislation to H.R. 3105 9136
of the 117th Congress and to protect the Second Amendment rights 9137
of Ohioans that are engaged in the legal use of cannabis. 9138

Section 6. The General Assembly, applying the principle 9139
stated in division (B) of section 1.52 of the Revised Code that 9140
amendments are to be harmonized if reasonably capable of 9141
simultaneous operation, finds that the following sections, 9142
presented in this act as composites of the sections as amended 9143
by the acts indicated, are the resulting versions of the 9144
sections in effect prior to the effective date of the sections 9145
as presented in this act: 9146

Section 109.572 of the Revised Code as amended by H.B. 110 9147
and S.B. 3 of the 134th General Assembly and H.B. 263 and S.B. 9148
260 of the 133rd General Assembly. 9149

Section 2925.04 of the Revised Code as amended by both 9150
S.B. 1 and S.B. 201 of the 132nd General Assembly. 9151

Section 4776.01 of the Revised Code as amended by both 9152
H.B. 166 and S.B. 57 of the 133rd General Assembly. 9153