

**As Passed by the Senate**

**135th General Assembly**

**Regular Session**

**2023-2024**

**Am. Sub. H. B. No. 366**

**Representative Ghanbari**

**Cosponsors: Representatives Abrams, Miller, K., Bird, Brennan, Carruthers, Creech, Cross, Daniels, Dell'Aquila, Dobos, Hall, LaRe, Oelslager, Patton, Plummer, Richardson, Robb Blasdel, Roemer, Santucci, Schmidt, Williams, Young, T.**

**Senators Manning, Antonio, Brenner, Cirino, Craig, Cutrona, DeMora, Dolan, Gavarone, Ingram, Johnson, Landis, Lang, Reineke, Romanchuk, Wilkin, Wilson**

---

**A BILL**

To amend sections 177.011, 177.02, 1707.043, 1  
2913.01, 2913.02, 2913.30, 2923.32, and 5739.17 2  
and to enact sections 177.04, 2913.021, and 3  
2913.08 of the Revised Code to enact the Fight 4  
Organized Retail Crime and Empower Law 5  
Enforcement (FORCE) Act to create the Organized 6  
Retail Theft Advisory Council and an 7  
investigative task force, to create the crime of 8  
theft of mail, and to modify theft offenses and 9  
penalties related to retail property. 10

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

**Section 1.** That sections 177.011, 177.02, 1707.043, 11  
2913.01, 2913.02, 2913.30, 2923.32, and 5739.17 be amended and 12  
sections 177.04, 2913.021, and 2913.08 of the Revised Code be 13  
enacted to read as follows: 14

**Sec. 177.011.** (A) There is hereby created in the state 15  
treasury the organized crime commission fund. The fund shall 16  
consist of moneys—the following: 17

(1) Money paid to the treasurer of state pursuant to the 18  
judgment of a court in a criminal case as reimbursement of 19  
expenses that the organized crime investigations commission or 20  
an organized crime task force established by the commission 21  
incurred in the investigation of the criminal activity upon 22  
which the prosecution of the criminal case was based. 23

(2) Money paid to the treasurer of state pursuant to 24  
section 5739.17 of the Revised Code. 25

(B) All investment earnings on moneys in of the fund shall 26  
be credited to the fund. 27

(C) The organized crime investigations commission shall 28  
use the moneys in the fund—money described in division (A) (1) of 29  
this section to reimburse political subdivisions for the 30  
expenses the political subdivisions incur when their law 31  
enforcement officers participate in an organized crime task 32  
force. 33

(D) The organized crime investigations commission shall 34  
use the money described in division (A) (2) of this section 35  
exclusively to support the operations of the organized retail 36  
theft task force. 37

**Sec. 177.02.** (A) (1) As used in this section, "cargo 38  
theft" means the unlawful taking of any cargo including goods, 39  
chattels, money, or baggage that constitutes a commercial 40  
shipment of freight moving in any of the following: 41

(a) Commerce; 42

<u>(b) A pipeline system;</u>	43
<u>(c) A railroad car;</u>	44
<u>(d) A motor truck or other vehicle;</u>	45
<u>(e) A tank or storage facility;</u>	46
<u>(f) A station house, platform, or depot;</u>	47
<u>(g) A vessel or wharf;</u>	48
<u>(h) An aircraft, airport terminal, airport, aircraft terminal, or air navigation facility;</u>	49 50
<u>(i) An intermodal container, intermodal chassis, trailer, container freight station, warehouse, freight distribution facility, or freight consolidation facility.</u>	51 52 53
<u>(2)</u> Any person may file with the organized crime investigations commission a complaint that alleges that organized criminal activity has occurred in a county. A person who files a complaint under this division also may file with the commission information relative to the complaint.	54 55 56 57 58
<del>(B)</del> <u>(1)</u> Upon the filing of a complaint under division (A) of this section or upon its own initiative, the commission may establish an organized crime task force to investigate organized criminal activity in a single county or in two or more counties if it determines, based upon the complaint filed and the information relative to it or based upon any information that it may have received, that there is reason to believe that organized criminal activity has occurred and continues to occur in that county or in each of those counties. The commission shall not establish an organized crime task force to investigate organized criminal activity in any single county unless it makes the determination required under this division relative to that	59 60 61 62 63 64 65 66 67 68 69 70

county and shall not establish an organized crime task force to 71  
investigate organized criminal activity in two or more counties 72  
unless it makes the determination required under this division 73  
relative to each of those counties. The commission, at any time, 74  
may terminate an organized crime task force it has established 75  
under this section. 76

(2) An organized retail theft task force is established 77  
within the commission to investigate organized retail theft 78  
activity, including cargo theft. The task force may investigate 79  
based on any complaint filed or information the task force 80  
receives that gives reason to believe organized retail theft has 81  
occurred and continues to occur in one or more counties. 82

(3) The task force director and members of the organized 83  
retail theft task force shall be appointed in the same manner as 84  
an organized crime task force under division (C) of this 85  
section. 86

(C) (1) If the commission establishes an organized crime 87  
task force to investigate organized criminal activity in a 88  
single county or in two or more counties pursuant to division 89  
(B) of this section, the commission initially shall appoint a 90  
task force director to directly supervise the investigation. The 91  
task force director shall be either the sheriff or a deputy 92  
sheriff of any county in the state, the chief law enforcement 93  
officer or a member of a law enforcement agency of any municipal 94  
corporation or township in the state, or an agent of the bureau 95  
of criminal identification and investigation. No person shall be 96  
appointed as task force director without the person's consent 97  
and, if applicable, the consent of the person's employing 98  
sheriff or law enforcement agency or of the superintendent of 99  
the bureau of criminal identification and investigation if the 100

person is an employee of the bureau. Upon appointment of a task force director, the commission shall meet with the director and establish the scope and limits of the investigation to be conducted by the task force and the size of the task force investigatory staff to be appointed by the task force director. The commission, at any time, may remove a task force director appointed under this division and may replace any director so removed according to the guidelines for the initial appointment of a director.

(2) A task force director appointed under this section shall assemble a task force investigatory staff, of a size determined by the commission and the director, to conduct the investigation. Unless it appears to the commission and the director, based upon the complaint filed and any information relative to it or based upon any information that the commission may have received, that there is reason to believe that the office of the prosecuting attorney of the county or one of the counties served by the task force is implicated in the organized criminal activity to be investigated, one member of the investigatory staff shall be the prosecuting attorney or an assistant prosecuting attorney of the county or one of the counties served by the task force. If a prosecuting attorney or assistant prosecuting attorney is not a participating member of the task force, the office of the attorney general shall provide legal assistance to the task force upon request. Each of the other members of the investigatory staff shall be either the sheriff or a deputy sheriff of any county in the state, the chief law enforcement officer or a member of a law enforcement agency of any municipal corporation or township in the state, or an agent of the bureau of criminal identification and investigation. No person shall be appointed to the investigatory

staff without the person's consent and, if applicable, the consent of the person's employing sheriff or law enforcement agency or the superintendent of the bureau of criminal identification and investigation if the person is an employee of the bureau. To the extent possible, the investigatory staff shall be composed of persons familiar with investigatory techniques that generally would be utilized in an investigation of organized criminal activity. To the extent practicable, the investigatory staff shall be assembled in such a manner that numerous law enforcement agencies within the county or the counties served by the task force are represented on the investigatory staff. The investigatory staff shall be assembled in such a manner that at least one sheriff, deputy sheriff, municipal corporation law enforcement officer, or township law enforcement officer from each of the counties served by the task force is represented on the investigatory staff. A task force director, at any time, may remove any member of the investigatory staff the task force director has assembled under this division and may replace any member so removed according to the guidelines for the initial assembly of the investigatory staff.

(3) The commission may provide an organized crime task force established under this section with technical and clerical employees and with equipment necessary to efficiently conduct its investigation into organized criminal activity.

(4) Upon the establishment of a task force, the commission shall issue to the task force director and each member of the task force investigatory staff appropriate credentials stating the person's identity, position, and authority.

(D) (1) A task force investigatory staff, during the period

of the investigation for which it is assembled, is responsible 162  
only to the task force director and shall operate under the 163  
direction and control of the task force director. Any necessary 164  
and actual expenses incurred by a task force director or 165  
investigatory staff, including any such expenses incurred for 166  
food, lodging, or travel, and any other necessary and actual 167  
expenses of an investigation into organized criminal activity 168  
conducted by a task force, shall be paid by the commission. 169

(2) For purposes of workers' compensation and the 170  
allocation of liability for any death, injury, or damage they 171  
may cause in the performance of their duties, a task force 172  
director and investigatory staff, during the period of the 173  
investigation for which the task force is assembled, shall be 174  
considered to be employees of the commission and of the state. 175

(3) For purposes of compensation, pension or indemnity 176  
fund rights, and other rights and benefits to which they may be 177  
entitled, a task force director and investigatory staff, during 178  
the period of the performance of their duties as director and 179  
investigatory staff, shall be considered to be performing their 180  
duties in their normal capacity as prosecuting attorney, 181  
assistant prosecuting attorney, sheriff, deputy sheriff, chief 182  
law enforcement officer or member of a law enforcement agency of 183  
a municipal corporation or township, or agent of the bureau of 184  
criminal identification and investigation. 185

(4) The commission may reimburse a political subdivision 186  
for any costs incurred under division (D)(3) of this section 187  
resulting from the payment of any compensation, rights, or 188  
benefits as described in that division from the organized crime 189  
commission fund created in section 177.011 of the Revised Code. 190  
Reimbursement related to service on an organized crime task 191

force shall derive from the funding described in division (A) (1) 192  
of that section. Reimbursement related to service on the 193  
organized retail theft task force shall derive from the funding 194  
described in division (A) (2) of that section. 195

(E) Except as provided in this division, upon the 196  
establishment of a task force, the commission shall provide the 197  
prosecuting attorney of each of the counties served by the task 198  
force with written notice that the task force has been 199  
established to investigate organized criminal activity in that 200  
county. Such notice shall not be provided to a prosecuting 201  
attorney if it appears to the commission, based upon the 202  
complaint filed and any information relative to it or based upon 203  
any information that the commission may have received, that 204  
there is reason to believe that the office of that prosecuting 205  
attorney is implicated in the organized criminal activity to be 206  
investigated. 207

(F) The filing of a complaint alleging organized criminal 208  
activity, the establishment of an organized crime task force, 209  
the appointment of a task force director and the identity of the 210  
task force director, the assembly of an investigatory staff and 211  
the identity of its members, the conduct of an investigation 212  
into organized criminal activity, and the identity of any person 213  
who is being or is expected to be investigated by the task force 214  
shall be kept confidential by the commission and its director 215  
and employees, and by the task force and its director, 216  
investigatory staff, and employees until an indictment is 217  
returned or a criminal action or proceeding is initiated in a 218  
court of proper jurisdiction. 219

(G) For purposes of divisions (C) and (E) of this section, 220  
the office of a prosecuting attorney shall be considered as 221



being implicated in organized criminal activity only if the 222  
prosecuting attorney, one or more of the prosecuting attorney's 223  
assistants, or one or more of the prosecuting attorney's 224  
employees has committed or attempted or conspired to commit, is 225  
committing or attempting or conspiring to commit, or has engaged 226  
in or is engaging in complicity in the commission of, organized 227  
criminal activity. 228

Sec. 177.04. (A) The organized retail theft advisory 229  
council is created within the office of the attorney general. 230  
The council consists of the following members: 231

(1) The attorney general or the attorney general's 232  
designee; 233

(2) An employee of the office of the attorney general 234  
appointed by the attorney general; 235

(3) The president or chief executive officer of the Ohio 236  
council of retail merchants, or the president's or chief 237  
executive officer's designee; 238

(4) Two loss prevention representatives from retail 239  
businesses with more than two hundred fifty employees and two 240  
loss prevention representatives from retail businesses with less 241  
than two hundred fifty employees; 242

(5) A member of the Ohio prosecuting attorneys 243  
association, or a member of the Ohio prosecuting attorneys 244  
association's designee; 245

(6) A member of the Ohio grocers association, or a member 246  
of the Ohio grocers association's designee. 247

(B) The attorney general shall appoint loss prevention 248  
representatives to the council after consulting with statewide 249

trade and professional organizations that represent the 250  
interests of retail businesses and loss prevention. The 251  
organizations may nominate persons to be considered for 252  
appointment as council members. 253

(C) (1) The council shall advise the organized crime 254  
investigations commission on organized retail theft and 255  
recommend actions for the commission to detect, deter, prevent, 256  
and prosecute organized retail theft. The council shall meet at 257  
least quarterly, and the attorney general or the attorney 258  
general's designee shall serve as chairperson. 259

(2) The employee of the office of the attorney general 260  
appointed to the council shall serve as liaison to the organized 261  
retail theft task force established in section 177.02 of the 262  
Revised Code. 263

(D) In addition to other duties described in this section, 264  
the council may engage in the following activities: 265

(1) Compiling and disseminating to retail businesses and 266  
law enforcement agencies innovative methods of detecting, 267  
detering, preventing, and prosecuting organized retail theft; 268

(2) Conducting training conferences to educate retail 269  
businesses and law enforcement agencies regarding current and 270  
emerging crime trends; 271

(3) Consulting with national, state, and local law 272  
enforcement agencies and retail associations concerning 273  
organized retail theft; 274

(4) Educating the public on the problems associated with 275  
organized retail theft. 276

(E) Members of the council shall serve without 277

compensation but shall be reimbursed for actual and necessary 278  
expenses incurred in performing their official duties. The 279  
organized crime investigations commission may provide the 280  
council with technical and clerical employees as necessary to 281  
accomplish its responsibilities under this section. 282

(F) The council shall share information and intelligence 283  
on organized retail theft, compliant with applicable data 284  
privacy laws, between retail businesses and law enforcement 285  
agencies to enhance the identification of offenders and the 286  
targeting of criminal enterprises. 287

**Sec. 1707.043.** (A) For the purpose of preventing 288  
manipulative practices by a person who makes a proposal, or 289  
publicly discloses the intention or possibility of making a 290  
proposal, to acquire control of a corporation formed under the 291  
laws of this state, any profit realized, directly or indirectly, 292  
from the disposition of any equity securities of a corporation 293  
by a person who, within eighteen months before disposition 294  
directly or indirectly, alone or in concert with others, made a 295  
proposal, or publicly disclosed the intention or possibility of 296  
making a proposal, to acquire control of the corporation and 297  
engages in a manipulative practice with respect to such 298  
proposal, inures to and is recoverable by the corporation. 299

(B) No profit from the disposition of equity securities 300  
shall inure to or be recoverable by a corporation under this 301  
section if any of the following apply: 302

(1) The equity securities were acquired by the person 303  
disposing of them at any of the following times: 304

(a) More than eighteen months before the date on which the 305  
proposal or public disclosure was made; 306

(b) Before ~~the effective date of this section~~April 11, 307  
1990; 308

(c) Pursuant to a contract executed prior to ~~the effective~~ 309  
~~date of this section~~April 11, 1990. 310

(2) The person who disposed of the equity securities 311  
proves in a court of competent jurisdiction either of the 312  
following: 313

(a) At the time the proposals or public disclosures were 314  
made, the person's sole purpose in making the proposals or 315  
public disclosures was to succeed in acquiring control of the 316  
corporation and under the circumstances, including, without 317  
limitation, the person's proposed price, financing and other 318  
acquisition plans, the person's financial resources and 319  
capabilities, and all other alternatives reasonably anticipated 320  
to become available to the corporation's shareholders, there 321  
were reasonable grounds to believe that the person would acquire 322  
control of the corporation; 323

(b) The person's public disclosure concerning the 324  
intention or possibility of making a proposal to acquire control 325  
of the corporation and all other potentially manipulative 326  
conduct and practices by or on ~~his~~the person's behalf were not 327  
effected with a purpose of affecting market trading and thereby 328  
increasing any profit or decreasing any loss which the person 329  
might realize, directly or indirectly, from the disposition of 330  
the equity securities and did not have a material effect upon 331  
the price or volume of market trading in the equity securities. 332  
Evidence with respect to the past practices of such person is 333  
admissible and relevant in respect to the person's intent or 334  
purpose under divisions (B) (2) (a) and (b) of this section. 335

(3) The aggregate amount of all profit the person 336  
realized, directly or indirectly, does not exceed two hundred 337  
fifty thousand dollars. 338

(C) Equity securities acquired by a person as a result of 339  
a share split, share dividend, or other similar distribution by 340  
a corporation of equity securities issued by it not involving a 341  
sale of the equity securities, is deemed to have been acquired 342  
by such person on the date on which the person acquired the 343  
equity security with respect to which the equity securities were 344  
subsequently distributed by the corporation. 345

(D) No profit or any portion thereof recoverable by a 346  
corporation in an action brought under section 16(b) of the 347  
federal "securities exchange act of 1934," is recoverable by the 348  
corporation under this section. 349

(E) (1) A corporation may commence an action to recover any 350  
profit recoverable under this section in any court of competent 351  
jurisdiction. If the corporation fails or refuses to bring the 352  
action within sixty days after written request by any holder of 353  
any equity security in the corporation or fails to diligently 354  
prosecute the action, the holder may bring the action on behalf 355  
of the corporation. If a court of competent jurisdiction enters 356  
a judgment requiring the payment of any such profits, the party 357  
who brought the action is entitled to all costs, including 358  
reasonable attorney fees, incurred in connection with the 359  
enforcement of this section. 360

(2) No action shall be brought by or on behalf of a 361  
corporation upon a cause of action arising under this section at 362  
any time after two years from the date on which the disposition 363  
of equity securities occurred. 364

(F) This section does not apply to any corporation which 365  
does not have issued and outstanding shares that are listed on a 366  
national securities exchange or are regularly quoted in an over- 367  
the-counter market by one or more members of a national or 368  
affiliated securities association or to any corporation whose 369  
articles or regulations provide by specific reference to this 370  
section that this section does not apply to the corporation and 371  
its equity securities. 372

(G) The division of securities, pursuant to Chapter 119. 373  
of the Revised Code, may adopt reasonable rules to define terms 374  
used in this section and types of conduct or practices which the 375  
division determines are either of the following: 376

(1) Comprehended as within the purpose of this section as 377  
set forth in division (A) of this section and therefore subject 378  
to this section; 379

(2) Not comprehended as within the purpose of division (A) 380  
of this section and therefore exempt from this section. 381

(H) As used in this section: 382

(1) "Corporation" and "person" have the same meanings as 383  
in section 1701.01 of the Revised Code. 384

(2) "Profit from the disposition of equity securities of a 385  
corporation" means both of the following: 386

(a) The excess of the fair market value of the 387  
consideration directly or indirectly received or to be received 388  
from the disposition, less the usual and customary broker's 389  
commissions actually paid in connection with the disposition, 390  
over the fair market value of the consideration directly or 391  
indirectly paid for the acquisition of the equity securities, 392  
plus the usual and customary broker's commissions actually paid 393

in connection with the acquisition;	394
(b) The value of any tax benefit to which a person is directly or indirectly entitled resulting from disposition of equity securities of the corporation for consideration with a value that is less than the fair market value of the equity securities at the time of disposition.	395 396 397 398 399
(3) "Disposition of equity securities of a corporation" means any sale, exchange, transfer, or other disposition of any kind of the equity securities <u>to the corporation</u> or any contract to sell, exchange, transfer, or otherwise dispose of the equity securities, <del>to any other person, including the corporation,</del> for valuable consideration.	400 401 402 403 404 405
(4) "Equity securities" means any of the following:	406
(a) Shares of any class or series of a corporation;	407
(b) Any securities convertible into or exercisable for shares of any class or series of a corporation, with or without additional consideration;	408 409 410
(c) Any warrant, right, or option to subscribe for or to purchase shares of any class or series of the corporation, or any securities convertible into shares of any class or series;	411 412 413
(d) Any interest, direct or indirect, in any equity securities.	414 415
(5) <u>"Manipulative practices" means either or both of the following:</u>	416 417
<u>(a) The act of staging a hostile takeover bid in order to manipulate a corporation into repurchasing the corporation's own common stock at a premium above the current market price;</u>	418 419 420

(b) Any other act that the division of securities defines 421  
as a "manipulative practice" pursuant to division (G) of this 422  
section. 423

(6) "Publicly disclosed," "publicly discloses," and 424  
"public disclosure" includes, but is not limited to, any 425  
disclosure, whether or not required by law, that becomes public 426  
and was made or caused to be made by a person: 427

(a) With the intent or expectation that the disclosure 428  
become public; or 429

(b) To another person where the person making or causing 430  
to be made the disclosure, knows or reasonably should know, that 431  
the person who receives the disclosure is not under an 432  
obligation to refrain from making the disclosure, directly or 433  
indirectly, to the public and such person does make the 434  
disclosure, directly or indirectly, to the public. 435

~~(6)~~ (7) "To acquire control of the corporation" means the 436  
acquisition by any person, directly or indirectly, either alone 437  
or in concert with another person, of the power, whether or not 438  
exercised, to direct or cause the direction of the management 439  
and policies of the corporation, whether through the ownership 440  
of voting shares, or by contract ~~or otherwise~~, unless any 441  
proposal, or public disclosure of the intention or possibility 442  
of making a proposal, to acquire control of the corporation made 443  
by such person affirmatively states that the person does not 444  
intend, either alone or in concert with another person, to 445  
exercise control of the corporation and such person does not, 446  
directly or indirectly, exercise control of the corporation 447  
prior to ~~his~~ the person's disposition of any equity securities 448  
of the corporation. "To acquire control of the corporation" does 449  
not include attempts by shareholders to generally influence a 450



corporation's policies or actions, including attempts to 451  
nominate candidates for director of the corporation. 452

**Sec. 2913.01.** As used in this chapter, unless the context 453  
requires that a term be given a different meaning: 454

(A) "Deception" means knowingly deceiving another or 455  
causing another to be deceived by any false or misleading 456  
representation, by withholding information, by preventing 457  
another from acquiring information, or by any other conduct, 458  
act, or omission that creates, confirms, or perpetuates a false 459  
impression in another, including a false impression as to law, 460  
value, state of mind, or other objective or subjective fact. 461

(B) "Defraud" means to knowingly obtain, by deception, 462  
some benefit for oneself or another, or to knowingly cause, by 463  
deception, some detriment to another. 464

(C) "Deprive" means to do any of the following: 465

(1) Withhold property of another permanently, or for a 466  
period that appropriates a substantial portion of its value or 467  
use, or with purpose to restore it only upon payment of a reward 468  
or other consideration; 469

(2) Dispose of property so as to make it unlikely that the 470  
owner will recover it; 471

(3) Accept, use, or appropriate money, property, or 472  
services, with purpose not to give proper consideration in 473  
return for the money, property, or services, and without 474  
reasonable justification or excuse for not giving proper 475  
consideration. 476

(D) "Owner" means, unless the context requires a different 477  
meaning, any person, other than the actor, who is the owner of, 478

who has possession or control of, or who has any license or 479  
interest in property or services, even though the ownership, 480  
possession, control, license, or interest is unlawful. 481

(E) "Services" include labor, personal services, 482  
professional services, rental services, public utility services 483  
including wireless service as defined in division (F)(1) of 484  
section 128.01 of the Revised Code, common carrier services, and 485  
food, drink, transportation, entertainment, and cable television 486  
services and, for purposes of section 2913.04 of the Revised 487  
Code, include cable services as defined in that section. 488

(F) "Writing" means any computer software, document, 489  
letter, memorandum, note, paper, plate, data, film, or other 490  
thing having in or upon it any written, typewritten, or printed 491  
matter, and any token, stamp, seal, credit card, badge, 492  
trademark, label, or other symbol of value, right, privilege, 493  
license, or identification. 494

(G) "Forge" means to fabricate or create, in whole or in 495  
part and by any means, any spurious writing, or to make, 496  
execute, alter, complete, reproduce, or otherwise purport to 497  
authenticate any writing, when the writing in fact is not 498  
authenticated by that conduct. 499

(H) "Utter" means to issue, publish, transfer, use, put or 500  
send into circulation, deliver, or display. 501

(I) "Coin machine" means any mechanical or electronic 502  
device designed to do both of the following: 503

(1) Receive a coin, bill, or token made for that purpose; 504

(2) In return for the insertion or deposit of a coin, 505  
bill, or token, automatically dispense property, provide a 506  
service, or grant a license. 507

(J) "Slug" means an object that, by virtue of its size, shape, composition, or other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill, or token made for that purpose.

(K) "Theft offense" means any of the following:

(1) A violation of section 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 2913.06, 2913.08, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.42, 2913.43, 2913.44, 2913.45, 2913.47, 2913.48, former section 2913.47 or 2913.48, or section 2913.51, 2915.05, or 2921.41 of the Revised Code;

(2) A violation of an existing or former municipal ordinance or law of this or any other state, or of the United States, substantially equivalent to any section listed in division (K)(1) of this section or a violation of section 2913.41, 2913.81, or 2915.06 of the Revised Code as it existed prior to July 1, 1996;

(3) An offense under an existing or former municipal ordinance or law of this or any other state, or of the United States, involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit, or fraud;

(4) A conspiracy or attempt to commit, or complicity in committing, any offense under division (K)(1), (2), or (3) of this section.

(L) "Computer services" includes, but is not limited to, the use of a computer system, computer network, computer program, data that is prepared for computer use, or data that is

contained within a computer system or computer network. 537

(M) "Computer" means an electronic device that performs 538  
logical, arithmetic, and memory functions by the manipulation of 539  
electronic or magnetic impulses. "Computer" includes, but is not 540  
limited to, all input, output, processing, storage, computer 541  
program, or communication facilities that are connected, or 542  
related, in a computer system or network to an electronic device 543  
of that nature. 544

(N) "Computer system" means a computer and related 545  
devices, whether connected or unconnected, including, but not 546  
limited to, data input, output, and storage devices, data 547  
communications links, and computer programs and data that make 548  
the system capable of performing specified special purpose data 549  
processing tasks. 550

(O) "Computer network" means a set of related and remotely 551  
connected computers and communication facilities that includes 552  
more than one computer system that has the capability to 553  
transmit among the connected computers and communication 554  
facilities through the use of computer facilities. 555

(P) "Computer program" means an ordered set of data 556  
representing coded instructions or statements that, when 557  
executed by a computer, cause the computer to process data. 558

(Q) "Computer software" means computer programs, 559  
procedures, and other documentation associated with the 560  
operation of a computer system. 561

(R) "Data" means a representation of information, 562  
knowledge, facts, concepts, or instructions that are being or 563  
have been prepared in a formalized manner and that are intended 564  
for use in a computer, computer system, or computer network. For 565

purposes of section 2913.47 of the Revised Code, "data" has the 566  
additional meaning set forth in division (A) of that section. 567

(S) "Cable television service" means any services provided 568  
by or through the facilities of any cable television system or 569  
other similar closed circuit coaxial cable communications 570  
system, or any microwave or similar transmission service used in 571  
connection with any cable television system or other similar 572  
closed circuit coaxial cable communications system. 573

(T) "Gain access" means to approach, instruct, communicate 574  
with, store data in, retrieve data from, or otherwise make use 575  
of any resources of a computer, computer system, or computer 576  
network, or any cable service or cable system both as defined in 577  
section 2913.04 of the Revised Code. 578

(U) "Credit card" includes, but is not limited to, a card, 579  
code, device, or other means of access to a customer's account 580  
for the purpose of obtaining money, property, labor, or services 581  
on credit, or for initiating an electronic fund transfer at a 582  
point-of-sale terminal, an automated teller machine, or a cash 583  
dispensing machine. It also includes a county procurement card 584  
issued under section 301.29 of the Revised Code. 585

(V) "Electronic fund transfer" has the same meaning as in 586  
92 Stat. 3728, 15 U.S.C.A. 1693a, as amended. 587

(W) "Rented property" means personal property in which the 588  
right of possession and use of the property is for a short and 589  
possibly indeterminate term in return for consideration; the 590  
rentee generally controls the duration of possession of the 591  
property, within any applicable minimum or maximum term; and the 592  
amount of consideration generally is determined by the duration 593  
of possession of the property. 594

(X) "Telecommunication" means the origination, emission, 595  
dissemination, transmission, or reception of data, images, 596  
signals, sounds, or other intelligence or equivalence of 597  
intelligence of any nature over any communications system by any 598  
method, including, but not limited to, a fiber optic, 599  
electronic, magnetic, optical, digital, or analog method. 600

(Y) "Telecommunications device" means any instrument, 601  
equipment, machine, or other device that facilitates 602  
telecommunication, including, but not limited to, a computer, 603  
computer network, computer chip, computer circuit, scanner, 604  
telephone, cellular telephone, pager, personal communications 605  
device, transponder, receiver, radio, modem, or device that 606  
enables the use of a modem. 607

(Z) "Telecommunications service" means the providing, 608  
allowing, facilitating, or generating of any form of 609  
telecommunication through the use of a telecommunications device 610  
over a telecommunications system. 611

(AA) "Counterfeit telecommunications device" means a 612  
telecommunications device that, alone or with another 613  
telecommunications device, has been altered, constructed, 614  
manufactured, or programmed to acquire, intercept, receive, or 615  
otherwise facilitate the use of a telecommunications service or 616  
information service without the authority or consent of the 617  
provider of the telecommunications service or information 618  
service. "Counterfeit telecommunications device" includes, but 619  
is not limited to, a clone telephone, clone microchip, tumbler 620  
telephone, or tumbler microchip; a wireless scanning device 621  
capable of acquiring, intercepting, receiving, or otherwise 622  
facilitating the use of telecommunications service or 623  
information service without immediate detection; or a device, 624

equipment, hardware, or software designed for, or capable of, 625  
altering or changing the electronic serial number in a wireless 626  
telephone. 627

(BB) (1) "Information service" means, subject to division 628  
(BB) (2) of this section, the offering of a capability for 629  
generating, acquiring, storing, transforming, processing, 630  
retrieving, utilizing, or making available information via 631  
telecommunications, including, but not limited to, electronic 632  
publishing. 633

(2) "Information service" does not include any use of a 634  
capability of a type described in division (BB) (1) of this 635  
section for the management, control, or operation of a 636  
telecommunications system or the management of a 637  
telecommunications service. 638

(CC) "Elderly person" means a person who is sixty-five 639  
years of age or older. 640

(DD) "Disabled adult" means a person who is eighteen years 641  
of age or older and has some impairment of body or mind that 642  
makes the person unable to work at any substantially 643  
remunerative employment that the person otherwise would be able 644  
to perform and that will, with reasonable probability, continue 645  
for a period of at least twelve months without any present 646  
indication of recovery from the impairment, or who is eighteen 647  
years of age or older and has been certified as permanently and 648  
totally disabled by an agency of this state or the United States 649  
that has the function of so classifying persons. 650

(EE) "Firearm" and "dangerous ordnance" have the same 651  
meanings as in section 2923.11 of the Revised Code. 652

(FF) "Motor vehicle" has the same meaning as in section 653

4501.01 of the Revised Code. 654

(GG) "Dangerous drug" has the same meaning as in section 655  
4729.01 of the Revised Code. 656

(HH) "Drug abuse offense" has the same meaning as in 657  
section 2925.01 of the Revised Code. 658

(II) (1) "Computer hacking" means any of the following: 659

(a) Gaining access or attempting to gain access to all or 660  
part of a computer, computer system, or a computer network 661  
without express or implied authorization with the intent to 662  
defraud or with intent to commit a crime; 663

(b) Misusing computer or network services including, but 664  
not limited to, mail transfer programs, file transfer programs, 665  
proxy servers, and web servers by performing functions not 666  
authorized by the owner of the computer, computer system, or 667  
computer network or other person authorized to give consent. As 668  
used in this division, "misuse of computer and network services" 669  
includes, but is not limited to, the unauthorized use of any of 670  
the following: 671

(i) Mail transfer programs to send mail to persons other 672  
than the authorized users of that computer or computer network; 673

(ii) File transfer program proxy services or proxy servers 674  
to access other computers, computer systems, or computer 675  
networks; 676

(iii) Web servers to redirect users to other web pages or 677  
web servers. 678

(c) (i) Subject to division (II) (1) (c) (ii) of this section, 679  
using a group of computer programs commonly known as "port 680  
scanners" or "probes" to intentionally access any computer, 681



computer system, or computer network without the permission of 682  
the owner of the computer, computer system, or computer network 683  
or other person authorized to give consent. The group of 684  
computer programs referred to in this division includes, but is 685  
not limited to, those computer programs that use a computer 686  
network to access a computer, computer system, or another 687  
computer network to determine any of the following: the presence 688  
or types of computers or computer systems on a network; the 689  
computer network's facilities and capabilities; the availability 690  
of computer or network services; the presence or versions of 691  
computer software including, but not limited to, operating 692  
systems, computer services, or computer contaminants; the 693  
presence of a known computer software deficiency that can be 694  
used to gain unauthorized access to a computer, computer system, 695  
or computer network; or any other information about a computer, 696  
computer system, or computer network not necessary for the 697  
normal and lawful operation of the computer initiating the 698  
access. 699

(ii) The group of computer programs referred to in 700  
division (II) (1) (c) (i) of this section does not include standard 701  
computer software used for the normal operation, administration, 702  
management, and test of a computer, computer system, or computer 703  
network including, but not limited to, domain name services, 704  
mail transfer services, and other operating system services, 705  
computer programs commonly called "ping," "tcpdump," and 706  
"traceroute" and other network monitoring and management 707  
computer software, and computer programs commonly known as 708  
"nslookup" and "whois" and other systems administration computer 709  
software. 710

(d) The intentional use of a computer, computer system, or 711  
a computer network in a manner that exceeds any right or 712

permission granted by the owner of the computer, computer 713  
system, or computer network or other person authorized to give 714  
consent. 715

(2) "Computer hacking" does not include the introduction 716  
of a computer contaminant, as defined in section 2909.01 of the 717  
Revised Code, into a computer, computer system, computer 718  
program, or computer network. 719

(JJ) "Police dog or horse" has the same meaning as in 720  
section 2921.321 of the Revised Code. 721

(KK) "Anhydrous ammonia" is a compound formed by the 722  
combination of two gaseous elements, nitrogen and hydrogen, in 723  
the manner described in this division. Anhydrous ammonia is one 724  
part nitrogen to three parts hydrogen (NH<sub>3</sub>). Anhydrous ammonia 725  
by weight is fourteen parts nitrogen to three parts hydrogen, 726  
which is approximately eighty-two per cent nitrogen to eighteen 727  
per cent hydrogen. 728

(LL) "Assistance dog" has the same meaning as in section 729  
955.011 of the Revised Code. 730

(MM) "Federally licensed firearms dealer" has the same 731  
meaning as in section 5502.63 of the Revised Code. 732

(NN) "Active duty service member" means any member of the 733  
armed forces of the United States performing active duty under 734  
title 10 of the United States Code. 735

**Sec. 2913.02.** (A) No person, with purpose to deprive the 736  
owner of property or services, shall knowingly obtain or exert 737  
control over either the property or services in any of the 738  
following ways: 739

(1) Without the consent of the owner or person authorized 740

to give consent;	741
(2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;	742 743
(3) By deception;	744
(4) By threat;	745
(5) By intimidation.	746
(B) (1) Whoever violates this section is guilty of theft.	747
(2) Except as otherwise provided in this division or division (B) (3), (4), (5), (6), (7), (8), or (9) of this section, a violation of this section is misdemeanor theft, a misdemeanor of the first degree. If the value of the property or services stolen is one thousand dollars or more and is less than seven thousand five hundred dollars or if the property stolen is any of the property listed in section 2913.71 of the Revised Code, a violation of this section is theft, a felony of the fifth degree. If the value of the property or services stolen is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, <u>or if the offender has been</u> <u>convicted of or pleaded guilty to a felony theft offense within</u> <u>the previous three years,</u> a violation of this section is grand theft, a felony of the fourth degree. If the value of the property or services stolen is one hundred fifty thousand dollars or more and is less than seven hundred fifty thousand dollars, <u>or if the offender two or more times has been convicted</u> <u>of or pleaded guilty to a felony theft offense within the</u> <u>previous three years,</u> a violation of this section is aggravated theft, a felony of the third degree. If the value of the property or services is seven hundred fifty thousand dollars or more and is less than one million five hundred thousand dollars,	748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769

a violation of this section is aggravated theft, a felony of the 770  
second degree. If the value of the property or services stolen 771  
is one million five hundred thousand dollars or more, a 772  
violation of this section is aggravated theft of one million 773  
five hundred thousand dollars or more, a felony of the first 774  
degree. 775

(3) Except as otherwise provided in division (B) (4), (5), 776  
(6), (7), (8), or (9) of this section, if the victim of the 777  
offense is an elderly person, disabled adult, active duty 778  
service member, or spouse of an active duty service member, a 779  
violation of this section is theft from a person in a protected 780  
class, and division (B) (3) of this section applies. Except as 781  
otherwise provided in this division, theft from a person in a 782  
protected class is a felony of the fifth degree. If the value of 783  
the property or services stolen is one thousand dollars or more 784  
and is less than seven thousand five hundred dollars, or if the 785  
offender has been convicted of or pleaded guilty to a felony 786  
theft offense within the previous three years, theft from a 787  
person in a protected class is a felony of the fourth degree. If 788  
the value of the property or services stolen is seven thousand 789  
five hundred dollars or more and is less than thirty-seven 790  
thousand five hundred dollars, or if the offender two or more 791  
times has been convicted of or pleaded guilty to a felony theft 792  
offense within the previous three years, theft from a person in 793  
a protected class is a felony of the third degree. If the value 794  
of the property or services stolen is thirty-seven thousand five 795  
hundred dollars or more and is less than one hundred fifty 796  
thousand dollars, theft from a person in a protected class is a 797  
felony of the second degree. If the value of the property or 798  
services stolen is one hundred fifty thousand dollars or more, 799  
theft from a person in a protected class is a felony of the 800

first degree. If the victim of the offense is an elderly person, 801  
in addition to any other penalty imposed for the offense, the 802  
offender shall be required to pay full restitution to the victim 803  
and to pay a fine of up to fifty thousand dollars. The clerk of 804  
court shall forward all fines collected under division (B) (3) of 805  
this section to the county department of job and family services 806  
to be used for the reporting and investigation of elder abuse, 807  
neglect, and exploitation or for the provision or arrangement of 808  
protective services under sections 5101.61 to 5101.71 of the 809  
Revised Code. 810

(4) If the property stolen is a firearm or dangerous 811  
ordnance, a violation of this section is grand theft. Except as 812  
otherwise provided in this division, grand theft when the 813  
property stolen is a firearm or dangerous ordnance is a felony 814  
of the third degree, and there is a presumption in favor of the 815  
court imposing a prison term for the offense. If the firearm or 816  
dangerous ordnance was stolen from a federally licensed firearms 817  
dealer, grand theft when the property stolen is a firearm or 818  
dangerous ordnance is a felony of the first degree. The offender 819  
shall serve a prison term imposed for grand theft when the 820  
property stolen is a firearm or dangerous ordnance consecutively 821  
to any other prison term or mandatory prison term previously or 822  
subsequently imposed upon the offender. 823

(5) If the property stolen is a motor vehicle, a violation 824  
of this section is grand theft of a motor vehicle, a felony of 825  
the fourth degree. 826

(6) If the property stolen is any dangerous drug, a 827  
violation of this section is theft of drugs, a felony of the 828  
fourth degree, or, if the offender previously has been convicted 829  
of a felony drug abuse offense, a felony of the third degree. 830

(7) If the property stolen is a police dog or horse or an assistance dog and the offender knows or should know that the property stolen is a police dog or horse or an assistance dog, a violation of this section is theft of a police dog or horse or an assistance dog, a felony of the third degree.

(8) If the property stolen is anhydrous ammonia, a violation of this section is theft of anhydrous ammonia, a felony of the third degree.

(9) Except as provided in division (B) (2) of this section with respect to property with a value of seven thousand five hundred dollars or more and division (B) (3) of this section with respect to property with a value of one thousand dollars or more, if the property stolen is a special purpose article as defined in section 4737.04 of the Revised Code or is a bulk merchandise container as defined in section 4737.012 of the Revised Code, a violation of this section is theft of a special purpose article or articles or theft of a bulk merchandise container or containers, a felony of the fifth degree.

(10) In addition to the penalties described in division (B) (2) of this section, if the offender committed the violation by causing a motor vehicle to leave the premises of an establishment at which gasoline is offered for retail sale without the offender making full payment for gasoline that was dispensed into the fuel tank of the motor vehicle or into another container, the court may do one of the following:

(a) Unless division (B) (10) (b) of this section applies, suspend for not more than six months the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege;

(b) If the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege has previously been suspended pursuant to division (B) (10) (a) of this section, impose a class seven suspension of the offender's license, permit, or privilege from the range specified in division (A) (7) of section 4510.02 of the Revised Code, provided that the suspension shall be for at least six months.

(c) The court, in lieu of suspending the offender's driver's or commercial driver's license, probationary driver's license, temporary instruction permit, or nonresident operating privilege pursuant to division (B) (10) (a) or (b) of this section, instead may require the offender to perform community service for a number of hours determined by the court.

(11) In addition to the penalties described in division (B) (2) of this section, if the offender committed the violation by stealing rented property or rental services, the court may order that the offender make restitution pursuant to section 2929.18 or 2929.28 of the Revised Code. Restitution may include, but is not limited to, the cost of repairing or replacing the stolen property, or the cost of repairing the stolen property and any loss of revenue resulting from deprivation of the property due to theft of rental services that is less than or equal to the actual value of the property at the time it was rented. Evidence of intent to commit theft of rented property or rental services shall be determined pursuant to the provisions of section 2913.72 of the Revised Code.

(C) The sentencing court that suspends an offender's license, permit, or nonresident operating privilege under division (B) (10) of this section may grant the offender limited

driving privileges during the period of the suspension in 891  
accordance with Chapter 4510. of the Revised Code. 892

Sec. 2913.021. (A) As used in this section, "mail" means 893  
any letter, card, parcel, or other material, along with its 894  
contents, that is received, accepted for delivery, delivered, or 895  
left for collection by a postal service, including the United 896  
States postal service, a common carrier, or a private delivery 897  
service. 898

(B) No person, with purpose to deprive the owner of mail, 899  
shall knowingly obtain or exert control over mail in any of the 900  
following ways: 901

(1) Without the consent of the owner or person authorized 902  
to give consent; 903

(2) Beyond the scope of the express or implied consent of 904  
the owner or person authorized to give consent; 905

(3) By deception; 906

(4) By threat; 907

(5) By intimidation. 908

(C) Whoever violates this section is guilty of theft of 909  
mail, a felony of the fifth degree except as provided in 910  
division (B) (2) of section 2913.02 of the Revised Code with 911  
respect to property with a value of seven thousand five hundred 912  
dollars or more and division (B) (3) of section 2913.02 of the 913  
Revised Code with respect to property with a value of one 914  
thousand dollars or more. 915

(D) A prosecution for a violation of this section does not 916  
preclude a prosecution of a violation of any other section of 917  
the Revised Code. One or more acts, a series of acts, or a 918



course of behavior that can be prosecuted under this section or 919  
any other section of the Revised Code may be prosecuted under 920  
this section, the other section of the Revised Code, or both 921  
sections. However, if an offender is convicted of or pleads 922  
guilty to a violation of this section and also is convicted of 923  
or pleads guilty to a violation of section 2913.02 of the 924  
Revised Code based on the same conduct involving the same victim 925  
that was the basis of the violation of this section, the two 926  
offenses are allied offenses of similar import under section 927  
2941.25 of the Revised Code. 928

**Sec. 2913.08.** (A) As used in this section: 929

(1) "Enterprise" has the same meaning as in section 930  
2923.31 of the Revised Code. 931

(2) "Retail property" means any tangible personal property 932  
displayed, held, stored, transported, or offered for sale in or 933  
by a retail establishment, manufacturer, distributor, or an 934  
online marketplace as defined in section 1349.65 of the Revised 935  
Code. "Retail property" includes gift cards as defined in 936  
section 1349.61 of the Revised Code. 937

(3) "Retail property fence" means an enterprise that 938  
possesses, procures, receives, or conceals retail property that 939  
was represented to the enterprise as being stolen or that the 940  
enterprise knows or believes to be stolen. 941

(4) "Retail value" means the full retail value of the 942  
retail property, including all applicable taxes and shipping 943  
costs. 944

(5) "Theft" means conduct that would constitute a 945  
violation of section 2913.02 of the Revised Code. 946

(B) No person shall knowingly commit theft of retail 947

property with a retail value of seven thousand five hundred 948  
dollars or more from a retail establishment, manufacturer, 949  
distributor, or cargo transportation unit for either of the 950  
following purposes: 951

(1) To sell, deliver, or transfer that property to a 952  
retail property fence; 953

(2) To sell, deliver, transfer, exchange, or return the 954  
retail property for value. 955

(C) No person employed by, or associated with, an 956  
enterprise shall receive, purchase, or possess retail property 957  
with a retail value of seven thousand five hundred dollars or 958  
more if the person knows, believes, or has reasonable cause to 959  
believe that the property has been obtained by theft. 960

(D) No person shall knowingly act as an agent of an 961  
enterprise to steal retail property with a retail value of seven 962  
thousand five hundred dollars or more from a retail 963  
establishment, manufacturer, distributor, or cargo 964  
transportation unit as part of an organized plan to commit 965  
theft. 966

(E) No person shall knowingly recruit, coordinate, 967  
organize, supervise, direct, manage, or finance an enterprise to 968  
undertake any of the acts described in division (B), (C), or (D) 969  
of this section. 970

(F) Whoever violates this section is guilty of organized 971  
theft of retail property. If the retail value is less than seven 972  
hundred fifty thousand dollars, organized theft of retail 973  
property is a felony of the third degree. If the retail value is 974  
seven hundred fifty thousand dollars or more but less than one 975  
million five hundred thousand dollars, organized theft of retail 976

property is a felony of the second degree. If the retail value 977  
is one million five hundred thousand dollars or more, organized 978  
theft of retail property is a felony of the first degree. If 979  
organized theft of retail property is a felony of the third 980  
degree under this division and if the offender previously has 981  
been convicted of or pleaded guilty to organized theft of retail 982  
property or, within the prior three years, any felony theft 983  
offense, there is a presumption of a prison term for the 984  
offense. If organized theft of retail property is a felony of 985  
the third degree under this division and if the offender two or 986  
more times previously has been convicted of or pleaded guilty to 987  
organized theft of retail property, or, within the prior three 988  
years, two or more felony theft offenses, the court shall impose 989  
as a mandatory prison term one of the prison terms prescribed 990  
for a felony of the third degree. 991

(G) In determining whether the retail value of retail 992  
property equals or exceeds seven thousand five hundred dollars, 993  
the value of all retail property stolen from the retail 994  
establishment or retail establishments by the same person or 995  
persons within any twelve-month period shall be aggregated. 996

(H) (1) A prosecution for a violation of this section does 997  
not preclude a prosecution for a violation of section 2913.02, 998  
2913.51, or 2913.32 of the Revised Code based on the same 999  
conduct or a prosecution for a violation of section 2923.32 of 1000  
the Revised Code based on the same conduct where the violation 1001  
involves engaging in a pattern of corrupt activity related to 1002  
organized retail theft. 1003

(2) If an offender is convicted of or pleads guilty to a 1004  
violation of this section and is also convicted of or pleads 1005  
guilty to a violation described in division (H) (1) of this 1006

section based on the same conduct that was the basis of the 1007  
violation of this section, the two or more offenses are allied 1008  
offenses of similar import under section 2941.25 of the Revised 1009  
Code. 1010

**Sec. 2913.30.** (A) As used in this section: 1011

(1) "Access device" means any debit or credit card 1012  
representing a monetary security or retail amount by any 1013  
financial institution, including a bank, savings bank, savings 1014  
and loan association, credit union, or business entity. "Access 1015  
device" includes a gift card as defined in section 1349.61 of 1016  
the Revised Code. 1017

(2) "Obligation or other security" means an instrument 1018  
recognized as currency or legal tender or that is issued by the 1019  
United States treasury, including bills, coins, bonds, or 1020  
checks. 1021

(3) "Encoding machine" means an electronic device that is 1022  
used to encode information onto an access device. 1023

(4) "Merchant" means an owner or operator of a retail 1024  
establishment or an agent, employee, lessee, consignee, officer, 1025  
director, franchisee, or independent contractor of the owner or 1026  
operator. 1027

(5) "Scanning device" means a scanner, reader, wireless 1028  
access device, radio frequency identification scanner, an 1029  
electronic device that utilizes near field communication 1030  
technology, or any other electronic device that is used to 1031  
access, read, scan, obtain, memorize, or store, temporarily or 1032  
permanently, information encoded on an access device. 1033

(B) No person, with purpose to defraud or knowing that the 1034  
person is facilitating a fraud, shall do any of the following: 1035

- (1) Falsely make, forge, counterfeit, or alter any obligation or other security of the United States; 1036  
1037
- (2) Pass, utter, sell, purchase, conceal, or transfer any counterfeit obligation or other security of the United States; 1038  
1039
- (3) Possess with the purpose to utter any obligation or other security of the United States, knowing that the obligation or other security has been counterfeited; 1040  
1041  
1042
- (4) Without authorization of the issuer, falsely make, forge, counterfeit, alter, or knowingly possess any access device; 1043  
1044  
1045
- (5) Directly or indirectly use a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on an access device without the permission of the authorized user of the access device, the financial institution issuing the authorized user's access device, or a merchant; 1046  
1047  
1048  
1049  
1050  
1051
- (6) Directly or indirectly use an encoding machine to place information encoded on an access device onto a different access device without the permission of the authorized user of the access device from which the information was obtained, the financial institution issuing the authorized user's access device, or a merchant. 1052  
1053  
1054  
1055  
1056  
1057
- (C) Whoever violates this section is guilty of counterfeiting. Except as otherwise provided in this division, counterfeiting is a felony of the fourth degree, and in addition, the court shall impose on the offender a fine from the range of fines for a felony of the fourth degree that is not less than five hundred dollars. 1058  
1059  
1060  
1061  
1062  
1063
- (1) If the value of the counterfeited obligations or other 1064

securities or access devices is five thousand dollars or more 1065  
and is less than one hundred thousand dollars, or if the offense 1066  
involves five or more access devices, counterfeiting is a felony 1067  
of the third degree. 1068

(2) If the value of the counterfeited obligations or other 1069  
securities or access devices is one hundred thousand dollars or 1070  
more and is less than one million dollars, counterfeiting is a 1071  
felony of the second degree. 1072

(3) If the value of the counterfeited obligations or other 1073  
securities or access devices is one million dollars or more, 1074  
counterfeiting is a felony of the first degree. 1075

(D) A prosecution for a violation of this section does not 1076  
preclude a prosecution for a violation of section 2913.02, 1077  
2913.31, or 2913.32 of the Revised Code based on the same 1078  
conduct. However, if an offender is convicted of or pleads 1079  
guilty to a violation of this section and is also convicted of 1080  
or pleads guilty to a violation of section 2913.02, 2913.31, or 1081  
2913.32 of the Revised Code based on the same conduct involving 1082  
the same victim that was the basis of the violation of this 1083  
section, the two or more offenses are allied offenses of similar 1084  
import under section 2941.25 of the Revised Code. 1085

**Sec. 2923.32.** (A) (1) No person employed by, or associated 1086  
with, any enterprise shall conduct or participate in, directly 1087  
or indirectly, the affairs of the enterprise through a pattern 1088  
of corrupt activity or the collection of an unlawful debt. 1089

(2) No person, through a pattern of corrupt activity or 1090  
the collection of an unlawful debt, shall acquire or maintain, 1091  
directly or indirectly, any interest in, or control of, any 1092  
enterprise or real property. 1093

(3) No person, who knowingly has received any proceeds 1094  
derived, directly or indirectly, from a pattern of corrupt 1095  
activity or the collection of any unlawful debt, shall use or 1096  
invest, directly or indirectly, any part of those proceeds, or 1097  
any proceeds derived from the use or investment of any of those 1098  
proceeds, in the acquisition of any title to, or any right, 1099  
interest, or equity in, real property or in the establishment or 1100  
operation of any enterprise. 1101

A purchase of securities on the open market with intent to 1102  
make an investment, without intent to control or participate in 1103  
the control of the issuer, and without intent to assist another 1104  
to do so is not a violation of this division, if the securities 1105  
of the issuer held after the purchase by the purchaser, the 1106  
members of the purchaser's immediate family, and the purchaser's 1107  
or the immediate family members' accomplices in any pattern of 1108  
corrupt activity or the collection of an unlawful debt do not 1109  
aggregate one per cent of the outstanding securities of any one 1110  
class of the issuer and do not confer, in law or in fact, the 1111  
power to elect one or more directors of the issuer. 1112

(B) (1) Whoever violates this section is guilty of engaging 1113  
in a pattern of corrupt activity. Except as otherwise provided 1114  
in this division, engaging in corrupt activity is a felony of 1115  
the second degree. Except as otherwise provided in this 1116  
division, if at least one of the incidents of corrupt activity 1117  
is a felony of the first, second, or third degree, aggravated 1118  
murder, or murder, if at least one of the incidents was a felony 1119  
under the law of this state that was committed prior to July 1, 1120  
1996, and that would constitute a felony of the first, second, 1121  
or third degree, aggravated murder, or murder if committed on or 1122  
after July 1, 1996, or if at least one of the incidents of 1123  
corrupt activity is a felony under the law of the United States 1124

or of another state that, if committed in this state on or after 1125  
July 1, 1996, would constitute a felony of the first, second, or 1126  
third degree, aggravated murder, or murder under the law of this 1127  
state, engaging in a pattern of corrupt activity is a felony of 1128  
the first degree. If the offender also is convicted of or pleads 1129  
guilty to a specification as described in section 2941.1422 of 1130  
the Revised Code that was included in the indictment, count in 1131  
the indictment, or information charging the offense, engaging in 1132  
a pattern of corrupt activity is a felony of the first degree, 1133  
and the court shall sentence the offender to a mandatory prison 1134  
term as provided in division (B) (7) of section 2929.14 of the 1135  
Revised Code and shall order the offender to make restitution as 1136  
provided in division (B) (8) of section 2929.18 of the Revised 1137  
Code. Notwithstanding any other provision of law, a person may 1138  
be convicted of violating the provisions of this section as well 1139  
as of a conspiracy to violate one or more of those provisions 1140  
under section 2923.01 of the Revised Code. 1141

(2) Notwithstanding the financial sanctions authorized by 1142  
section 2929.18 of the Revised Code, the court may do all of the 1143  
following with respect to any person who derives pecuniary value 1144  
or causes property damage, personal injury other than pain and 1145  
suffering, or other loss through or by the violation of this 1146  
section: 1147

(a) In lieu of the fine authorized by that section, impose 1148  
a fine not exceeding the greater of three times the gross value 1149  
gained or three times the gross loss caused and order the clerk 1150  
of the court to pay the fine into the state treasury to the 1151  
credit of the corrupt activity investigation and prosecution 1152  
fund, which is hereby created; 1153

(b) In addition to the fine described in division (B) (2) 1154



(a) of this section and the financial sanctions authorized by 1155  
section 2929.18 of the Revised Code, order the person to pay 1156  
court costs; 1157

(c) In addition to the fine described in division (B) (2) 1158  
(a) of this section and the financial sanctions authorized by 1159  
section 2929.18 of the Revised Code, order the person to pay to 1160  
the state, municipal, or county law enforcement agencies that 1161  
handled the investigation and prosecution the costs of 1162  
investigation and prosecution that are reasonably incurred. 1163

The court shall hold a hearing to determine the amount of 1164  
fine, court costs, and other costs to be imposed under this 1165  
division. 1166

(3) In addition to any other penalty or disposition 1167  
authorized or required by law, the court shall order any person 1168  
who is convicted of or pleads guilty to a violation of this 1169  
section or who is adjudicated delinquent by reason of a 1170  
violation of this section to criminally forfeit to the state 1171  
under Chapter 2981. of the Revised Code any personal or real 1172  
property in which the person has an interest and that was used 1173  
in the course of or intended for use in the course of a 1174  
violation of this section, or that was derived from or realized 1175  
through conduct in violation of this section, including any 1176  
property constituting an interest in, means of control over, or 1177  
influence over the enterprise involved in the violation and any 1178  
property constituting proceeds derived from the violation, 1179  
including all of the following: 1180

(a) Any position, office, appointment, tenure, commission, 1181  
or employment contract of any kind acquired or maintained by the 1182  
person in violation of this section, through which the person, 1183  
in violation of this section, conducted or participated in the 1184

conduct of an enterprise, or that afforded the person a source 1185  
of influence or control over an enterprise that the person 1186  
exercised in violation of this section; 1187

(b) Any compensation, right, or benefit derived from a 1188  
position, office, appointment, tenure, commission, or employment 1189  
contract described in division (B) (3) (a) of this section that 1190  
accrued to the person in violation of this section during the 1191  
period of the pattern of corrupt activity; 1192

(c) Any interest in, security of, claim against, or 1193  
property or contractual right affording the person a source of 1194  
influence or control over the affairs of an enterprise that the 1195  
person exercised in violation of this section; 1196

(d) Any amount payable or paid under any contract for 1197  
goods or services that was awarded or performed in violation of 1198  
this section. 1199

(C) If a pattern of corrupt activity involves one or more 1200  
incidents of organized retail theft, the retail establishment, 1201  
manufacturer, distributor, cargo transportation unit, online 1202  
marketplace, or group of those entities whose retail property is 1203  
alleged to have been stolen may contact the prosecuting attorney 1204  
and request that the charge be aggregated with other thefts of 1205  
retail property about which the retail establishment or group of 1206  
establishments is aware. 1207

In determining whether the retail value of stolen retail 1208  
property equals or exceeds one thousand dollars, the value of 1209  
all retail property stolen from the retail establishment or 1210  
group of establishments by the same person or persons within any 1211  
six-month period shall be aggregated. 1212

**Sec. 5739.17.** (A) No person shall engage in making retail 1213

sales subject to a tax imposed by or pursuant to section 1214  
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code as 1215  
a business without having a license therefor, except as 1216  
otherwise provided in divisions (A) (1), (2), and (3) of this 1217  
section. 1218

(1) In the dissolution of a partnership by death, the 1219  
surviving partner may operate under the license of the 1220  
partnership for a period of sixty days. 1221

(2) The heirs or legal representatives of deceased 1222  
persons, and receivers and trustees in bankruptcy, appointed by 1223  
any competent authority, may operate under the license of the 1224  
person so succeeded in possession. 1225

(3) Two or more persons who are not partners may operate a 1226  
single place of business under one license. In such case neither 1227  
the retirement of any such person from business at that place of 1228  
business, nor the entrance of any person, under an existing 1229  
arrangement, shall affect the license or require the issuance of 1230  
a new license, unless the person retiring from the business is 1231  
the individual named on the vendor's license. 1232

Except as otherwise provided in this section, each 1233  
applicant for a license shall make out and deliver to the county 1234  
auditor of each county in which the applicant desires to engage 1235  
in business, upon a blank to be furnished by such auditor for 1236  
that purpose, a statement showing the name of the applicant, 1237  
each place of business in the county where the applicant will 1238  
make retail sales, the nature of the business, and any other 1239  
information the tax commissioner reasonably prescribes in the 1240  
form of a statement prescribed by the commissioner. 1241

At the time of making the application, the applicant shall 1242

pay into the county treasury a license fee in the sum of ~~twenty-~~ 1243  
~~five-fifty~~ dollars for each fixed place of business in the 1244  
county that will be the situs of retail sales. Upon receipt of 1245  
the application and exhibition of the county treasurer's 1246  
receipt, showing the payment of the license fee, the county 1247  
auditor shall issue to the applicant a license for each fixed 1248  
place of business designated in the application, authorizing the 1249  
applicant to engage in business at that location. The county 1250  
auditor shall transmit twenty-five dollars of each license fee 1251  
to the treasurer of state for deposit into the state treasury to 1252  
the credit of the organized crime commission fund for the 1253  
purposes specified in section 177.011 of the Revised Code. The 1254  
remaining twenty-five dollars of each license fee shall be 1255  
credited to the general fund of the county. 1256

(B) If a vendor's identity changes, the vendor shall apply 1257  
for a new license. If a vendor wishes to move an existing fixed 1258  
place of business to a new location within the same county, the 1259  
vendor shall obtain a new vendor's license or submit a request 1260  
to the commissioner to transfer the existing vendor's license to 1261  
the new location. When the new location has been verified as 1262  
being within the same county, the commissioner shall authorize 1263  
the transfer and notify the county auditor of the change of 1264  
location. If a vendor wishes to move an existing fixed place of 1265  
business to another county, the vendor's license shall not 1266  
transfer and the vendor shall obtain a new vendor's license from 1267  
the county in which the business is to be located. The form of 1268  
the license shall be prescribed by the commissioner. The fees 1269  
collected shall be credited ~~to the general fund of the county~~ as 1270  
specified in division (A) (3) of this section. If a vendor fails 1271  
to notify the commissioner of a change of location of its fixed 1272  
place of business or that its business has closed, the 1273

commissioner may cancel the vendor's license if ordinary mail 1274  
sent to the location shown on the license is returned because of 1275  
an undeliverable address. 1276

(C) The commissioner may establish or participate in a 1277  
registration system whereby any vendor may obtain a vendor's 1278  
license by submitting to the commissioner a vendor's license 1279  
application and a license fee of ~~twenty-five~~ fifty dollars for 1280  
each fixed place of business at which the vendor intends to make 1281  
retail sales. Under this registration system, the commissioner 1282  
shall issue a vendor's license to the applicant on behalf of the 1283  
county auditor of the county in which the applicant desires to 1284  
engage in business, and shall forward a copy of the application 1285  
and license fee to that county. All such Twenty-five dollars of 1286  
each license fees-fee received by the commissioner for the 1287  
issuance of vendor's licenses shall be deposited into the 1288  
vendor's license application fund, which is hereby created in 1289  
the state treasury. The remaining twenty-five dollars of each 1290  
license fee shall be deposited into the organized crime 1291  
commission fund for the purposes specified in section 177.011 of 1292  
the Revised Code. The commissioner shall certify to the director 1293  
of budget and management within ten business days after the 1294  
close of a month the license fees to be transmitted to each 1295  
county from the vendor's license application fund for vendor's 1296  
license applications received by the commissioner during that 1297  
month. License fees transmitted to a county for which payment 1298  
was not received by the commissioner may be netted against a 1299  
future distribution to that county, including distributions made 1300  
pursuant to section 5739.21 of the Revised Code. 1301

A vendor that makes retail sales subject to tax under 1302  
Chapter 5739. of the Revised Code pursuant to a permit issued by 1303  
the division of liquor control shall obtain a vendor's license 1304

in the identical name and for the identical address as shown on 1305  
the permit. 1306

Except as otherwise provided in this section, if a vendor 1307  
has no fixed place of business and sells from a vehicle, each 1308  
vehicle intended to be used within a county constitutes a place 1309  
of business for the purpose of this section. 1310

(D) As used in this section, "transient vendor" means any 1311  
person who makes sales of tangible personal property from 1312  
vending machines located on land owned by others, who leases 1313  
titled motor vehicles, titled watercraft, or titled outboard 1314  
motors, who effectuates leases that are taxed according to 1315  
division (A) (2) of section 5739.02 of the Revised Code, or who, 1316  
in the usual course of the person's business, transports 1317  
inventory, stock of goods, or similar tangible personal property 1318  
to a temporary place of business or temporary exhibition, show, 1319  
fair, flea market, or similar event in a county in which the 1320  
person has no fixed place of business, for the purpose of making 1321  
retail sales of such property. A "temporary place of business" 1322  
means any public or quasi-public place including, but not 1323  
limited to, a hotel, rooming house, storeroom, building, part of 1324  
a building, tent, vacant lot, railroad car, or motor vehicle 1325  
that is temporarily occupied for the purpose of making retail 1326  
sales of goods to the public. A place of business is not 1327  
temporary if the same person conducted business at the place 1328  
continuously for more than six months or occupied the premises 1329  
as the person's permanent residence for more than six months, or 1330  
if the person intends it to be a fixed place of business. 1331

Any transient vendor, in lieu of obtaining a vendor's 1332  
license under division (A) of this section for counties in which 1333  
the transient vendor has no fixed place of business, may apply 1334

to the tax commissioner, on a form prescribed by the 1335  
commissioner, for a transient vendor's license. The transient 1336  
vendor's license authorizes the transient vendor to make retail 1337  
sales in any county in which the transient vendor does not 1338  
maintain a fixed place of business. Any holder of a transient 1339  
vendor's license shall not be required to obtain a separate 1340  
vendor's license from the county auditor in that county. Upon 1341  
the commissioner's determination that an applicant is a 1342  
transient vendor, the applicant shall pay a license fee in the 1343  
amount of ~~twenty-five-fifty~~ fifty dollars, at which time the tax 1344  
commissioner shall issue the license. Twenty-five dollars of 1345  
that license fee shall be deposited into the organized crime 1346  
commission fund for the purposes specified in section 177.011 of 1347  
the Revised Code. The tax commissioner may require a vendor to 1348  
be licensed as a transient vendor if, in the opinion of the 1349  
commissioner, such licensing is necessary for the efficient 1350  
administration of the tax. 1351

Any holder of a valid transient vendor's license may make 1352  
retail sales at a temporary place of business or temporary 1353  
exhibition, show, fair, flea market, or similar event, held 1354  
anywhere in the state without complying with any provision of 1355  
section 311.37 of the Revised Code. Any holder of a valid 1356  
vendor's license may make retail sales as a transient vendor at 1357  
a temporary place of business or temporary exhibition, show, 1358  
fair, flea market, or similar event held in any county in which 1359  
the vendor maintains a fixed place of business for which the 1360  
vendor holds a vendor's license without obtaining a transient 1361  
vendor's license. 1362

(E) Any vendor who is issued a license pursuant to this 1363  
section shall display the license or a copy of it prominently, 1364  
in plain view, at every place of business of the vendor. 1365

(F) No owner, organizer, or promoter who operates a fair, 1366  
flea market, show, exhibition, convention, or similar event at 1367  
which transient vendors are present shall fail to keep a 1368  
comprehensive record of all such vendors, listing the vendor's 1369  
name, permanent address, vendor's license number, and the type 1370  
of goods sold. Such records shall be kept for four years and 1371  
shall be open to inspection by the commissioner. 1372

(G) The commissioner may issue additional types of 1373  
licenses if required to efficiently administer the tax imposed 1374  
by this chapter. 1375

**Section 2.** That existing sections 177.011, 177.02, 1376  
1707.043, 2913.01, 2913.02, 2913.30, 2923.32, and 5739.17 of the 1377  
Revised Code are hereby repealed. 1378

**Section 3.** This act shall be known as the Fight Organized 1379  
Retail Crime and Empower Law Enforcement (FORCE) Act. 1380