

AN ACT

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

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

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

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

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

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

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

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

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

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

(a) Commerce;

(b) A pipeline system;

(c) A railroad car;

(d) A motor truck or other vehicle;

(e) A tank or storage facility;

(f) A station house, platform, or depot;

(g) A vessel or wharf;

(h) An aircraft, airport terminal, airport, aircraft terminal, or air navigation facility;

(i) An intermodal container, intermodal chassis, trailer, container freight station, warehouse, freight distribution facility, or freight consolidation facility.

(2) 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.

~~(B)~~(B)(1) 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 county and shall not establish an organized crime task force to investigate organized criminal activity in two or more counties unless it makes the determination required under this division relative to each of those counties. The commission, at any time, may terminate an organized crime task force it has established under this section.

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

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

(C)(1) If the commission establishes an organized crime task force to investigate organized criminal activity in a single county or in two or more counties pursuant to division (B) of this section, the commission initially shall appoint a task force director to directly supervise the investigation. The task force director 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 as task force director without the person's consent and, if applicable, the consent of the person's employing sheriff or law enforcement agency or of the superintendent of the bureau of criminal identification and investigation if the 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 only to the task force director and shall operate under the direction and control of the task force director. Any necessary and actual expenses incurred by a task force director or investigatory staff, including any such expenses incurred for food, lodging, or travel, and

any other necessary and actual expenses of an investigation into organized criminal activity conducted by a task force, shall be paid by the commission.

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

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

(4) The commission may reimburse a political subdivision for any costs incurred under division (D)(3) of this section resulting from the payment of any compensation, rights, or benefits as described in that division from the organized crime commission fund created in section 177.011 of the Revised Code. Reimbursement related to service on an organized crime task force shall derive from the funding described in division (A)(1) of that section. Reimbursement related to service on the organized retail theft task force shall derive from the funding described in division (A)(2) of that section.

(E) Except as provided in this division, upon the establishment of a task force, the commission shall provide the prosecuting attorney of each of the counties served by the task force with written notice that the task force has been established to investigate organized criminal activity in that county. Such notice shall not be provided to a prosecuting attorney if it appears to the commission, 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 that prosecuting attorney is implicated in the organized criminal activity to be investigated.

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

(G) For purposes of divisions (C) and (E) of this section, the office of a prosecuting attorney shall be considered as being implicated in organized criminal activity only if the prosecuting attorney, one or more of the prosecuting attorney's assistants, or one or more of the prosecuting

attorney's employees has committed or attempted or conspired to commit, is committing or attempting or conspiring to commit, or has engaged in or is engaging in complicity in the commission of, organized criminal activity.

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

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

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

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

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

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

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

(B) The attorney general shall appoint loss prevention representatives to the council after consulting with statewide trade and professional organizations that represent the interests of retail businesses and loss prevention. The organizations may nominate persons to be considered for appointment as council members.

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

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

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

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

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

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

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

(E) Members of the council shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in performing their official duties. The organized crime investigations commission may provide the council with technical and clerical employees as

necessary to accomplish its responsibilities under this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(H) As used in this section:

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

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

(a) The excess of the fair market value of the consideration directly or indirectly received or to be received from the disposition, less the usual and customary broker's commissions actually paid in connection with the disposition, over the fair market value of the consideration directly or

indirectly paid for the acquisition of the equity securities, plus the usual and customary broker's commissions actually paid in connection with the acquisition;

(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.

(3) "Disposition of equity securities of a corporation" means any sale, exchange, transfer, or other disposition of any kind of the equity securities to the corporation or any contract to sell, exchange, transfer, or otherwise dispose of the equity securities; ~~to any other person, including the corporation;~~ for valuable consideration.

(4) "Equity securities" means any of the following:

(a) Shares of any class or series of a corporation;

(b) Any securities convertible into or exercisable for shares of any class or series of a corporation, with or without additional consideration;

(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;

(d) Any interest, direct or indirect, in any equity securities.

(5) "Manipulative practices" means either or both of the following:

(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;

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

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

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

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

~~(6)-(7)~~ "To acquire control of the corporation" means the acquisition by any person, directly or indirectly, either alone or in concert with another person, of the power, whether or not exercised, to direct or cause the direction of the management and policies of the corporation, whether through the ownership of voting shares; or by contract or otherwise, unless any proposal, or public disclosure of the intention or possibility of making a proposal, to acquire control of the corporation made by such person affirmatively states that the person does not intend, either alone or in concert with another person, to exercise control of the corporation and such person does not, directly or indirectly, exercise control of the corporation prior to ~~his~~ the person's disposition of any equity securities of the corporation. "To acquire control of the corporation" does not include attempts by

shareholders to generally influence a corporation's policies or actions, including attempts to nominate candidates for director of the corporation.

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

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

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

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

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

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

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

(D) "Owner" means, unless the context requires a different meaning, any person, other than the actor, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license, or interest is unlawful.

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

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

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

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

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

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

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

(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.

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

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

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

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

(Q) "Computer software" means computer programs, procedures, and other documentation

associated with the operation of a computer system.

(R) "Data" means a representation of information, knowledge, facts, concepts, or instructions that are being or have been prepared in a formalized manner and that are intended for use in a computer, computer system, or computer network. For purposes of section 2913.47 of the Revised Code, "data" has the additional meaning set forth in division (A) of that section.

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

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

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

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

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

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

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

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

(AA) "Counterfeit telecommunications device" means a telecommunications device that,

alone or with another telecommunications device, has been altered, constructed, manufactured, or programmed to acquire, intercept, receive, or otherwise facilitate the use of a telecommunications service or information service without the authority or consent of the provider of the telecommunications service or information service. "Counterfeit telecommunications device" includes, but is not limited to, a clone telephone, clone microchip, tumbler telephone, or tumbler microchip; a wireless scanning device capable of acquiring, intercepting, receiving, or otherwise facilitating the use of telecommunications service or information service without immediate detection; or a device, equipment, hardware, or software designed for, or capable of, altering or changing the electronic serial number in a wireless telephone.

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

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

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

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

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

(FF) "Motor vehicle" has the same meaning as in section 4501.01 of the Revised Code.

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

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

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

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

(b) Misusing computer or network services including, but not limited to, mail transfer programs, file transfer programs, proxy servers, and web servers by performing functions not authorized by the owner of the computer, computer system, or computer network or other person authorized to give consent. As used in this division, "misuse of computer and network services"

includes, but is not limited to, the unauthorized use of any of the following:

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

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

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

(c)(i) Subject to division (II)(1)(c)(ii) of this section, using a group of computer programs commonly known as "port scanners" or "probes" to intentionally access any computer, computer system, or computer network without the permission of the owner of the computer, computer system, or computer network or other person authorized to give consent. The group of computer programs referred to in this division includes, but is not limited to, those computer programs that use a computer network to access a computer, computer system, or another computer network to determine any of the following: the presence or types of computers or computer systems on a network; the computer network's facilities and capabilities; the availability of computer or network services; the presence or versions of computer software including, but not limited to, operating systems, computer services, or computer contaminants; the presence of a known computer software deficiency that can be used to gain unauthorized access to a computer, computer system, or computer network; or any other information about a computer, computer system, or computer network not necessary for the normal and lawful operation of the computer initiating the access.

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

(d) The intentional use of a computer, computer system, or a computer network in a manner that exceeds any right or permission granted by the owner of the computer, computer system, or computer network or other person authorized to give consent.

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

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

(KK) "Anhydrous ammonia" is a compound formed by the combination of two gaseous elements, nitrogen and hydrogen, in the manner described in this division. Anhydrous ammonia is one part nitrogen to three parts hydrogen (NH₃). Anhydrous ammonia by weight is fourteen parts nitrogen to three parts hydrogen, which is approximately eighty-two per cent nitrogen to eighteen per cent hydrogen.

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

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

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

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

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

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

(3) By deception;

(4) By threat;

(5) By intimidation.

(B)(1) Whoever violates this section is guilty of theft.

(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, or if the offender has been convicted of or pleaded guilty to a felony theft offense within the previous three years, 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, or if the offender two or more times has been convicted of or pleaded guilty to a felony theft offense within the previous three years, 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, a violation of this section is aggravated theft, a felony of the second degree. If the value of the property or services stolen is one million five hundred thousand dollars or more, a violation of this section is aggravated theft of one million five hundred thousand dollars or more, a felony of the first degree.

(3) Except as otherwise provided in division (B)(4), (5), (6), (7), (8), or (9) of this section, if the victim of the offense is an elderly person, disabled adult, active duty service member, or spouse of an active duty service member, a violation of this section is theft from a person in a protected class, and division (B)(3) of this section applies. Except as otherwise provided in this division, theft from a person in a protected class is a felony of the fifth 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 offender has been convicted of or pleaded guilty to a felony theft offense within the previous three years, theft from a person in a protected class is a felony of the fourth degree. If the value of the property or services stolen is seven thousand five hundred dollars or more and is less than thirty-seven thousand five hundred dollars, or if the offender two or more times has been convicted of or pleaded guilty to a felony theft offense within the previous three years, theft from a person in a protected class is a felony of the third degree. If the value of the property or services stolen is thirty-seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, theft from a person in a protected class is a felony of the second degree. If the value of the property or services stolen is one hundred fifty thousand dollars or more, theft from a person in a protected class is a felony of the first degree. If the victim of the offense is an elderly person, in addition to any other penalty imposed for the offense, the offender shall be required to pay full restitution to the victim and to pay a fine of up to fifty thousand dollars. The clerk of court shall forward all fines collected under division (B)(3) of this section to the county department of job and family services to be used for the reporting and investigation of elder abuse, neglect, and exploitation or for the provision or arrangement of protective services under sections 5101.61 to 5101.71 of the Revised Code.

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

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

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

(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 accordance with Chapter 4510. of the Revised Code.

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

(B) No person, with purpose to deprive the owner of mail, shall knowingly obtain or exert

control over mail in any of the following ways:

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

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

(3) By deception;

(4) By threat;

(5) By intimidation.

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

(D) A prosecution for a violation of this section does not preclude a prosecution of a violation of any other section of the Revised Code. One or more acts, a series of acts, or a course of behavior that can be prosecuted under this section or any other section of the Revised Code may be prosecuted under this section, the other section of the Revised Code, or both sections. However, if an offender is convicted of or pleads guilty to a violation of this section and also is convicted of or pleads guilty to a violation of section 2913.02 of the Revised Code based on the same conduct involving the same victim that was the basis of the violation of this section, the two offenses are allied offenses of similar import under section 2941.25 of the Revised Code.

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

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

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

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

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

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

(B) No person shall knowingly commit theft of retail property with a retail value of seven thousand five hundred dollars or more from a retail establishment, manufacturer, distributor, or cargo transportation unit for either of the following purposes:

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

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

(C) No person employed by, or associated with, an enterprise shall receive, purchase, or

possess retail property with a retail value of seven thousand five hundred dollars or more if the person knows, believes, or has reasonable cause to believe that the property has been obtained by theft.

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

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

(F) Whoever violates this section is guilty of organized theft of retail property. If the retail value is less than seven hundred fifty thousand dollars, organized theft of retail property is a felony of the third degree. If the retail value is seven hundred fifty thousand dollars or more but less than one million five hundred thousand dollars, organized theft of retail property is a felony of the second degree. If the retail value is one million five hundred thousand dollars or more, organized theft of retail property is a felony of the first degree. If organized theft of retail property is a felony of the third degree under this division and if the offender previously has been convicted of or pleaded guilty to organized theft of retail property or, within the prior three years, any felony theft offense, there is a presumption of a prison term for the offense. If organized theft of retail property is a felony of the third degree under this division and if the offender two or more times previously has been convicted of or pleaded guilty to organized theft of retail property, or, within the prior three years, two or more felony theft offenses, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree.

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

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

(2) If an offender is convicted of or pleads guilty to a violation of this section and is also convicted of or pleads guilty to a violation described in division (H)(1) of this section based on the same conduct that was the basis of the violation of this section, the two or more offenses are allied offenses of similar import under section 2941.25 of the Revised Code.

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

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

the Revised Code.

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

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

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

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

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

(1) Falsely make, forge, counterfeit, or alter any obligation or other security of the United States;

(2) Pass, utter, sell, purchase, conceal, or transfer any counterfeit obligation or other security of the United States;

(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;

(4) Without authorization of the issuer, falsely make, forge, counterfeit, alter, or knowingly possess any access device;

(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;

(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.

(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.

(1) If the value of the counterfeited obligations or other securities or access devices is five thousand dollars or more and is less than one hundred thousand dollars, or if the offense involves five or more access devices, counterfeiting is a felony of the third degree.

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

the second degree.

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

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

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

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

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

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

(B)(1) Whoever violates this section is guilty of engaging in a pattern of corrupt activity. Except as otherwise provided in this division, engaging in corrupt activity is a felony of the second degree. Except as otherwise provided in this division, if at least one of the incidents of corrupt activity is a felony of the first, second, or third degree, aggravated murder, or murder, if at least one of the incidents was a felony under the law of this state that was committed prior to July 1, 1996, and that would constitute a felony of the first, second, or third degree, aggravated murder, or murder if committed on or after July 1, 1996, or if at least one of the incidents of corrupt activity is a felony under the law of the United States or of another state that, if committed in this state on or after July 1, 1996, would constitute a felony of the first, second, or third degree, aggravated murder, or murder under the law of this state, engaging in a pattern of corrupt activity is a felony of the first degree. If

the offender also is convicted of or pleads guilty to a specification as described in section 2941.1422 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, engaging in a pattern of corrupt activity is a felony of the first degree, and the court shall sentence the offender to a mandatory prison term as provided in division (B)(7) of section 2929.14 of the Revised Code and shall order the offender to make restitution as provided in division (B)(8) of section 2929.18 of the Revised Code. Notwithstanding any other provision of law, a person may be convicted of violating the provisions of this section as well as of a conspiracy to violate one or more of those provisions under section 2923.01 of the Revised Code.

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

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

(b) In addition to the fine described in division (B)(2)(a) of this section and the financial sanctions authorized by section 2929.18 of the Revised Code, order the person to pay court costs;

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

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

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

(a) Any position, office, appointment, tenure, commission, or employment contract of any kind acquired or maintained by the person in violation of this section, through which the person, in violation of this section, conducted or participated in the conduct of an enterprise, or that afforded the person a source of influence or control over an enterprise that the person exercised in violation of this section;

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

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

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

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

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

Sec. 5739.17. (A) No person shall engage in making retail sales subject to a tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code as a business without having a license therefor, except as otherwise provided in divisions (A)(1), (2), and (3) of this section.

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

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

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

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

At the time of making the application, the applicant shall pay into the county treasury a license fee in the sum of ~~twenty-five~~ fifty dollars for each fixed place of business in the county that

will be the situs of retail sales. Upon receipt of the application and exhibition of the county treasurer's receipt, showing the payment of the license fee, the county auditor shall issue to the applicant a license for each fixed place of business designated in the application, authorizing the applicant to engage in business at that location. The county auditor shall transmit twenty-five dollars of each license fee to the treasurer of state for deposit into the state treasury to the credit of the organized crime commission fund for the purposes specified in section 177.011 of the Revised Code. The remaining twenty-five dollars of each license fee shall be credited to the general fund of the county.

(B) If a vendor's identity changes, the vendor shall apply for a new license. If a vendor wishes to move an existing fixed place of business to a new location within the same county, the vendor shall obtain a new vendor's license or submit a request to the commissioner to transfer the existing vendor's license to the new location. When the new location has been verified as being within the same county, the commissioner shall authorize the transfer and notify the county auditor of the change of location. If a vendor wishes to move an existing fixed place of business to another county, the vendor's license shall not transfer and the vendor shall obtain a new vendor's license from the county in which the business is to be located. The form of the license shall be prescribed by the commissioner. The fees collected shall be credited ~~to the general fund of the county~~ as specified in division (A)(3) of this section. If a vendor fails to notify the commissioner of a change of location of its fixed place of business or that its business has closed, the commissioner may cancel the vendor's license if ordinary mail sent to the location shown on the license is returned because of an undeliverable address.

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

A vendor that makes retail sales subject to tax under Chapter 5739. of the Revised Code

pursuant to a permit issued by the division of liquor control shall obtain a vendor's license in the identical name and for the identical address as shown on the permit.

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

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

Any transient vendor, in lieu of obtaining a vendor's license under division (A) of this section for counties in which the transient vendor has no fixed place of business, may apply to the tax commissioner, on a form prescribed by the commissioner, for a transient vendor's license. The transient vendor's license authorizes the transient vendor to make retail sales in any county in which the transient vendor does not maintain a fixed place of business. Any holder of a transient vendor's license shall not be required to obtain a separate vendor's license from the county auditor in that county. Upon the commissioner's determination that an applicant is a transient vendor, the applicant shall pay a license fee in the amount of ~~twenty-five~~ fifty dollars, at which time the tax commissioner shall issue the license. Twenty-five dollars of that license fee shall be deposited into the organized crime commission fund for the purposes specified in section 177.011 of the Revised Code. The tax commissioner may require a vendor to be licensed as a transient vendor if, in the opinion of the commissioner, such licensing is necessary for the efficient administration of the tax.

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

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

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

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

SECTION 2. That existing sections 177.011, 177.02, 1707.043, 2913.01, 2913.02, 2913.30, 2923.32, and 5739.17 of the Revised Code are hereby repealed.

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

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. H. B. No. 366

135th G.A.

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

Director, Legislative Service Commission.

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

Secretary of State.

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