

As Reported by the Senate Judiciary Committee

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Sub. S. B. No. 55

Senator Manning

To amend sections 1547.11, 3701.143, 4511.181, and
4511.19 of the Revised Code to change the laws
pertaining to operating a vehicle or watercraft
while under the influence of marihuana and the
admissibility of evidence for purposes of OVI
statutes.

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

Section 1. That sections 1547.11, 3701.143, 4511.181, and
4511.19 of the Revised Code be amended to read as follows:

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Sec. 1547.11. (A) No person shall operate or be in
physical control of any vessel underway or shall manipulate any
water skis, aquaplane, or similar device on the waters in this
state if, at the time of the operation, control, or
manipulation, any of the following applies:

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(1) The person is under the influence of alcohol, a drug
of abuse, or a combination of them.

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(2) The person has a concentration of eight-hundredths of
one per cent or more by weight of alcohol per unit volume in the
person's whole blood.

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(3) The person has a concentration of ninety-six-
thousandths of one per cent or more by weight per unit volume of

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alcohol in the person's blood serum or plasma. 21

(4) The person has a concentration of eleven-hundredths of 22
one gram or more by weight of alcohol per one hundred 23
milliliters of the person's urine. 24

(5) The person has a concentration of eight-hundredths of 25
one gram or more by weight of alcohol per two hundred ten liters 26
of the person's breath. 27

(6) Except as provided in division ~~(H)~~(I) of this section, 28
the person has a concentration of any of the following 29
controlled substances or metabolites of a controlled substance 30
in the person's whole blood, blood serum or plasma, or urine 31
that equals or exceeds any of the following: 32

(a) The person has a concentration of amphetamine in the 33
person's urine of at least five hundred nanograms of amphetamine 34
per milliliter of the person's urine or has a concentration of 35
amphetamine in the person's whole blood or blood serum or plasma 36
of at least one hundred nanograms of amphetamine per milliliter 37
of the person's whole blood or blood serum or plasma. 38

(b) The person has a concentration of cocaine in the 39
person's urine of at least one hundred fifty nanograms of 40
cocaine per milliliter of the person's urine or has a 41
concentration of cocaine in the person's whole blood or blood 42
serum or plasma of at least fifty nanograms of cocaine per 43
milliliter of the person's whole blood or blood serum or plasma. 44

(c) The person has a concentration of cocaine metabolite 45
in the person's urine of at least one hundred fifty nanograms of 46
cocaine metabolite per milliliter of the person's urine or has a 47
concentration of cocaine metabolite in the person's whole blood 48
or blood serum or plasma of at least fifty nanograms of cocaine 49

metabolite per milliliter of the person's whole blood or blood 50
serum or plasma. 51

(d) The person has a concentration of heroin in the 52
person's urine of at least two thousand nanograms of heroin per 53
milliliter of the person's urine or has a concentration of 54
heroin in the person's whole blood or blood serum or plasma of 55
at least fifty nanograms of heroin per milliliter of the 56
person's whole blood or blood serum or plasma. 57

(e) The person has a concentration of heroin metabolite 58
(6-monoacetyl morphine) in the person's urine of at least ten 59
nanograms of heroin metabolite (6-monoacetyl morphine) per 60
milliliter of the person's urine or has a concentration of 61
heroin metabolite (6-monoacetyl morphine) in the person's whole 62
blood or blood serum or plasma of at least ten nanograms of 63
heroin metabolite (6-monoacetyl morphine) per milliliter of the 64
person's whole blood or blood serum or plasma. 65

(f) The person has a concentration of L.S.D. in the 66
person's urine of at least twenty-five nanograms of L.S.D. per 67
milliliter of the person's urine or has a concentration of 68
L.S.D. in the person's whole blood or blood serum or plasma of 69
at least ten nanograms of L.S.D. per milliliter of the person's 70
whole blood or blood serum or plasma. 71

(g) The person has a concentration of marihuana ~~in the~~ 72
~~person's urine of at least ten nanograms of marihuana per~~ 73
~~milliliter of the person's urine or has a concentration of~~ 74
~~marihuana (tetrahydrocannabinol) in the person's whole blood or~~ 75
~~blood serum or plasma of at least two five nanograms of~~ 76
~~marihuana tetrahydrocannabinol per milliliter of the person's~~ 77
~~whole blood or blood serum or plasma.~~ 78

(h) The state board of pharmacy has adopted a rule 79
pursuant to section 4729.041 of the Revised Code that specifies 80
the amount of salvia divinorum and the amount of salvinorin A 81
that constitute concentrations of salvia divinorum and 82
salvinorin A in a person's urine, in a person's whole blood, or 83
in a person's blood serum or plasma at or above which the person 84
is impaired for purposes of operating or being in physical 85
control of any vessel underway or manipulating any water skis, 86
aquaplane, or similar device on the waters of this state, the 87
rule is in effect, and the person has a concentration of salvia 88
divinorum or salvinorin A of at least that amount so specified 89
by rule in the person's urine, in the person's whole blood, or 90
in the person's blood serum or plasma. 91

(i) ~~Either of the following applies:~~ 92

~~(i) The person is under the influence of alcohol, a drug 93
of abuse, or a combination of them, and, as measured by gas 94
chromatography mass spectrometry, the person has a concentration 95
of marihuana metabolite in the person's urine of at least 96
fifteen nanograms of marihuana metabolite per milliliter of the 97
person's urine or has a concentration of marihuana metabolite in 98
the person's whole blood or blood serum or plasma of at least 99
five nanograms of marihuana metabolite per milliliter of the 100
person's whole blood or blood serum or plasma. 101~~

~~(ii) As measured by gas chromatography mass spectrometry, 102
the person has a concentration of marihuana metabolite in the 103
person's urine of at least thirty-five nanograms of marihuana 104
metabolite per milliliter of the person's urine or has a 105
concentration of marihuana metabolite in the person's whole 106
blood or blood serum or plasma of at least fifty nanograms of 107
marihuana metabolite per milliliter of the person's whole blood 108~~

~~or blood serum or plasma.~~ 109

~~(j)~~ The person has a concentration of methamphetamine in 110
the person's urine of at least five hundred nanograms of 111
methamphetamine per milliliter of the person's urine or has a 112
concentration of methamphetamine in the person's whole blood or 113
blood serum or plasma of at least one hundred nanograms of 114
methamphetamine per milliliter of the person's whole blood or 115
blood serum or plasma. 116

~~(k)~~ (j) The person has a concentration of phencyclidine in 117
the person's urine of at least twenty-five nanograms of 118
phencyclidine per milliliter of the person's urine or has a 119
concentration of phencyclidine in the person's whole blood or 120
blood serum or plasma of at least ten nanograms of phencyclidine 121
per milliliter of the person's whole blood or blood serum or 122
plasma. 123

(B) No person under twenty-one years of age shall operate 124
or be in physical control of any vessel underway or shall 125
manipulate any water skis, aquaplane, or similar device on the 126
waters in this state if, at the time of the operation, control, 127
or manipulation, any of the following applies: 128

(1) The person has a concentration of at least two- 129
hundredths of one per cent, but less than eight-hundredths of 130
one per cent by weight per unit volume of alcohol in the 131
person's whole blood. 132

(2) The person has a concentration of at least three- 133
hundredths of one per cent but less than ninety-six-thousandths 134
of one per cent by weight per unit volume of alcohol in the 135
person's blood serum or plasma. 136

(3) The person has a concentration of at least twenty- 137

eight one-thousandths of one gram, but less than eleven- 138
hundredths of one gram by weight of alcohol per one hundred 139
milliliters of the person's urine. 140

(4) The person has a concentration of at least two- 141
hundredths of one gram, but less than eight-hundredths of one 142
gram by weight of alcohol per two hundred ten liters of the 143
person's breath. 144

(C) In any proceeding arising out of one incident, a 145
person may be charged with a violation of division (A) (1) and a 146
violation of division (B) (1), (2), (3), or (4) of this section, 147
but the person shall not be convicted of more than one violation 148
of those divisions. 149

(D) (1) (a) In any criminal prosecution or juvenile court 150
proceeding for a violation of division (A) or (B) of this 151
section or for an equivalent offense that is watercraft-related, 152
the result of any test of any blood, oral fluid, or urine 153
withdrawn and analyzed at any health care provider, as defined 154
in section 2317.02 of the Revised Code, may be admitted with 155
expert testimony to be considered with any other relevant and 156
competent evidence in determining the guilt or innocence of the 157
defendant. 158

(b) In any criminal prosecution or juvenile court 159
proceeding for a violation of division (A) or (B) of this 160
section or for an equivalent offense that is watercraft-related, 161
the court may admit evidence on the presence and concentration 162
of alcohol, drugs of abuse, controlled substances, metabolites 163
of a controlled substance, or a combination of them in the 164
defendant's or child's whole blood, blood serum or plasma, 165
urine, oral fluid, or breath at the time of the alleged 166
violation as shown by chemical analysis of the substance 167

withdrawn, or specimen taken within three hours of the time of 168
the alleged violation. The three-hour time limit specified in 169
this division regarding the admission of evidence does not 170
extend or affect the two-hour time limit specified in division 171
(C) of section 1547.111 of the Revised Code as the maximum 172
period of time during which a person may consent to a chemical 173
test or tests as described in that section. The court may admit 174
evidence on the presence and concentration of alcohol, drugs of 175
abuse, or a combination of them as described in this division 176
when a person submits to a blood, breath, urine, oral fluid, or 177
other bodily substance test at the request of a law enforcement 178
officer under section 1547.111 of the Revised Code or a blood or 179
urine sample is obtained pursuant to a search warrant. Only a 180
physician, a registered nurse, an emergency medical technician- 181
intermediate, an emergency medical technician-paramedic, or a 182
qualified technician, chemist, or phlebotomist shall withdraw 183
blood for the purpose of determining the alcohol, drug, 184
controlled substance, metabolite of a controlled substance, or 185
combination content of the whole blood, blood serum, or blood 186
plasma. This limitation does not apply to the taking of breath, 187
oral fluid, or urine specimens. A person authorized to withdraw 188
blood under this division may refuse to withdraw blood under 189
this division if, in that person's opinion, the physical welfare 190
of the defendant or child would be endangered by withdrawing 191
blood. 192

The whole blood, blood serum or plasma, urine, oral fluid, 193
or breath withdrawn under division (D) (1) (b) of this section 194
shall be analyzed in accordance with methods approved by the 195
director of health by an individual possessing a valid permit 196
issued by the director pursuant to section 3701.143 of the 197
Revised Code. 198

(c) (i) Any evidence or testimony proposed to be admitted 199
under division (D) (1) (b) of this section is subject to the Rules 200
of Evidence, including Evid. R. 702 regarding expert testimony. 201

(ii) The admissibility of any evidence or testimony under 202
division (D) (1) (b) of this section regarding the presence and 203
concentration of alcohol, a drug of abuse, or a combination of 204
them in a person's whole blood, blood serum or plasma, urine, 205
breath, oral fluid, or other bodily substance does not affect, 206
impair, or limit the admissibility of either of the following 207
that is otherwise admissible under the Rules of Evidence: 208

(I) Any evidence or testimony regarding the analysis of a 209
person's whole blood, blood serum or plasma, urine, breath, oral 210
fluid, or other bodily substance under section 3701.143 of the 211
Revised Code; 212

(II) Any evidence or testimony regarding the method, 213
process, reliability, or equipment used in the process of 214
analyzing a person's whole blood, blood serum or plasma, urine, 215
breath, oral fluid, or other bodily substance under section 216
3701.143 of the Revised Code. 217

The trier of fact shall give any evidence or testimony 218
admitted by the court under division (D) (1) (c) of this section 219
whatever weight the trier of fact considers to be appropriate. 220

(2) In a criminal prosecution or juvenile court proceeding 221
for a violation of division (A) of this section or for an 222
equivalent offense that is watercraft-related, if there was at 223
the time the bodily substance was taken a concentration of less 224
than the applicable concentration of alcohol specified for a 225
violation of division (A) (2), (3), (4), or (5) of this section 226
or less than the applicable concentration of a listed controlled 227

substance or a listed metabolite of a controlled substance 228
specified for a violation of division (A) (6) of this section, 229
that fact may be considered with other competent evidence in 230
determining the guilt or innocence of the defendant or in making 231
an adjudication for the child. This division does not limit or 232
affect a criminal prosecution or juvenile court proceeding for a 233
violation of division (B) of this section or for a violation of 234
a prohibition that is substantially equivalent to that division. 235

(3) Upon the request of the person who was tested, the 236
results of the chemical test shall be made available to the 237
person or the person's attorney immediately upon completion of 238
the test analysis. 239

If the chemical test was administered pursuant to division 240
(D) (1) (b) of this section, the person tested may have a 241
physician, a registered nurse, or a qualified technician, 242
chemist, or phlebotomist of the person's own choosing administer 243
a chemical test or tests in addition to any administered at the 244
direction of a law enforcement officer, and shall be so advised. 245
The failure or inability to obtain an additional test by a 246
person shall not preclude the admission of evidence relating to 247
the test or tests taken at the direction of a law enforcement 248
officer. 249

(E) (1) In any criminal prosecution or juvenile court 250
proceeding for a violation of division (A) or (B) of this 251
section, of a municipal ordinance relating to operating or being 252
in physical control of any vessel underway or to manipulating 253
any water skis, aquaplane, or similar device on the waters of 254
this state while under the influence of alcohol, a drug of 255
abuse, or a combination of them, or of a municipal ordinance 256
relating to operating or being in physical control of any vessel 257

underway or to manipulating any water skis, aquaplane, or 258
similar device on the waters of this state with a prohibited 259
concentration of alcohol, a controlled substance, or a 260
metabolite of a controlled substance in the whole blood, blood 261
serum or plasma, breath, oral fluid, or urine, if a law 262
enforcement officer has administered a field sobriety test to 263
the operator or person found to be in physical control of the 264
vessel underway involved in the violation or the person 265
manipulating the water skis, aquaplane, or similar device 266
involved in the violation and if it is shown by clear and 267
convincing evidence that the officer administered the test in 268
substantial compliance with the testing standards for reliable, 269
credible, and generally accepted field sobriety tests for 270
vehicles that were in effect at the time the tests were 271
administered, including, but not limited to, any testing 272
standards then in effect that have been set by the national 273
highway traffic safety administration, that by their nature are 274
not clearly inapplicable regarding the operation or physical 275
control of vessels underway or the manipulation of water skis, 276
aquaplanes, or similar devices, all of the following apply: 277

(a) The officer may testify concerning the results of the 278
field sobriety test so administered. 279

(b) The prosecution may introduce the results of the field 280
sobriety test so administered as evidence in any proceedings in 281
the criminal prosecution or juvenile court proceeding. 282

(c) If testimony is presented or evidence is introduced 283
under division (E)(1)(a) or (b) of this section and if the 284
testimony or evidence is admissible under the Rules of Evidence, 285
the court shall admit the testimony or evidence, and the trier 286
of fact shall give it whatever weight the trier of fact 287

considers to be appropriate. 288

(2) Division (E)(1) of this section does not limit or 289
preclude a court, in its determination of whether the arrest of 290
a person was supported by probable cause or its determination of 291
any other matter in a criminal prosecution or juvenile court 292
proceeding of a type described in that division, from 293
considering evidence or testimony that is not otherwise 294
disallowed by division (E)(1) of this section. 295

(F)(1) A trier of fact may infer that a person is under 296
the influence of marihuana in violation of division (A)(1) of 297
this section if any of the following apply: 298

(a) The person has a concentration of at least twenty-five 299
nanograms of tetrahydrocannabinol per milliliter of the person's 300
urine. 301

(b) The person has a concentration of at least two but 302
less than five nanograms of tetrahydrocannabinol per milliliter 303
of the person's whole blood. 304

(c) The person has a concentration of at least five 305
nanograms of tetrahydrocannabinol per milliliter of the person's 306
oral fluid. 307

(2)(a) If the court admits any evidence or testimony 308
submitted by the prosecution under division (D)(1)(b) of this 309
section that demonstrates that a person had a concentration of 310
tetrahydrocannabinol that is within one of the levels specified 311
in division (F)(1) of this section, the trier of fact may, 312
without expert testimony, infer that the person was under the 313
influence of marihuana in violation of division (A)(1) of this 314
section. 315

(b) The inference that a person was under the influence of 316

marihuana in violation of division (A) (1) of this section may be 317
supported or rebutted by either party with any evidence or 318
testimony that complies with the Rules of Evidence. 319

(3) In determining whether a person was under the 320
influence of marihuana, the trier of fact shall consider all 321
relevant and competent evidence, including the inference, and 322
give the evidence whatever weight the trier of fact considers to 323
be appropriate. 324

(G) (1) Subject to division ~~(F) (3)~~ (G) (3) of this section, 325
in any criminal prosecution or juvenile court proceeding for a 326
violation of division (A) or (B) of this section or for an 327
equivalent offense that is substantially equivalent to either of 328
those divisions, the court shall admit as prima-facie evidence a 329
laboratory report from any laboratory personnel issued a permit 330
by the department of health authorizing an analysis as described 331
in this division that contains an analysis of the whole blood, 332
blood serum or plasma, breath, urine, or other bodily substance 333
tested and that contains all of the information specified in 334
this division. The laboratory report shall contain all of the 335
following: 336

(a) The signature, under oath, of any person who performed 337
the analysis; 338

(b) Any findings as to the identity and quantity of 339
alcohol, a drug of abuse, a controlled substance, a metabolite 340
of a controlled substance, or a combination of them that was 341
found; 342

(c) A copy of a notarized statement by the laboratory 343
director or a designee of the director that contains the name of 344
each certified analyst or test performer involved with the 345

report, the analyst's or test performer's employment 346
relationship with the laboratory that issued the report, and a 347
notation that performing an analysis of the type involved is 348
part of the analyst's or test performer's regular duties; 349

(d) An outline of the analyst's or test performer's 350
education, training, and experience in performing the type of 351
analysis involved and a certification that the laboratory 352
satisfies appropriate quality control standards in general and, 353
in this particular analysis, under rules of the department of 354
health. 355

(2) Notwithstanding any other provision of law regarding 356
the admission of evidence, a report of the type described in 357
division ~~(F)(1)~~ (G)(1) of this section is not admissible against 358
the defendant or child to whom it pertains in any proceeding, 359
other than a preliminary hearing or a grand jury proceeding, 360
unless the prosecutor has served a copy of the report on the 361
defendant's or child's attorney or, if the defendant or child 362
has no attorney, on the defendant or child. 363

(3) A report of the type described in division ~~(F)(1)~~ (G) 364
(1) of this section shall not be prima-facie evidence of the 365
contents, identity, or amount of any substance if, within seven 366
days after the defendant or child to whom the report pertains or 367
the defendant's or child's attorney receives a copy of the 368
report, the defendant or child or the defendant's or child's 369
attorney demands the testimony of the person who signed the 370
report. The judge in the case may extend the seven-day time 371
limit in the interest of justice. 372

~~(G)~~ (H) Except as otherwise provided in this division, any 373
physician, registered nurse, emergency medical technician- 374
intermediate, emergency medical technician-paramedic, or 375

qualified technician, chemist, or phlebotomist who withdraws 376
blood from a person pursuant to this section or section 1547.111 377
of the Revised Code, and a hospital, first-aid station, or 378
clinic at which blood is withdrawn from a person pursuant to 379
this section or section 1547.111 of the Revised Code, is immune 380
from criminal and civil liability based upon a claim of assault 381
and battery or any other claim that is not a claim of 382
malpractice, for any act performed in withdrawing blood from the 383
person. The immunity provided in this division also extends to 384
an emergency medical service organization that employs an 385
emergency medical technician-intermediate or an emergency 386
medical technician-paramedic who withdraws blood under this 387
section. The immunity provided in this division is not available 388
to a person who withdraws blood if the person engages in willful 389
or wanton misconduct. 390

~~(H)~~ (I) Division (A) (6) of this section does not apply to a 391
person who operates or is in physical control of a vessel 392
underway or manipulates any water skis, aquaplane, or similar 393
device while the person has a concentration of a listed 394
controlled substance or a listed metabolite of a controlled 395
substance in the person's whole blood, blood serum or plasma, or 396
urine that equals or exceeds the amount specified in that 397
division, if both of the following apply: 398

(1) The person obtained the controlled substance pursuant 399
to a prescription issued by a licensed health professional 400
authorized to prescribe drugs. 401

(2) The person injected, ingested, or inhaled the 402
controlled substance in accordance with the health 403
professional's directions. 404

~~(I)~~ (J) As used in this section and section 1547.111 of the 405

Revised Code: 406

(1) "Equivalent offense" has the same meaning as in 407
section 4511.181 of the Revised Code. 408

(2) "National highway traffic safety administration" has 409
the same meaning as in section 4511.19 of the Revised Code. 410

(3) "Operate" means that a vessel is being used on the 411
waters in this state when the vessel is not securely affixed to 412
a dock or to shore or to any permanent structure to which the 413
vessel has the right to affix or that a vessel is not anchored 414
in a designated anchorage area or boat camping area that is 415
established by the United States coast guard, this state, or a 416
political subdivision and in which the vessel has the right to 417
anchor. 418

(4) "Controlled substance" and "marihuana" have the same 419
meanings as in section 3719.01 of the Revised Code. 420

(5) "Cocaine" and "L.S.D." have the same meanings as in 421
section 2925.01 of the Revised Code. 422

(6) "Equivalent offense that is watercraft-related" means 423
an equivalent offense that is one of the following: 424

(a) A violation of division (A) of this section; 425

(b) A violation of a municipal ordinance prohibiting a 426
person from operating or being in physical control of any vessel 427
underway or from manipulating any water skis, aquaplane, or 428
similar device on the waters of this state while under the 429
influence of alcohol, a drug of abuse, or a combination of them 430
or prohibiting a person from operating or being in physical 431
control of any vessel underway or from manipulating any water 432
skis, aquaplane, or similar device on the waters of this state 433

with a prohibited concentration of alcohol, a controlled 434
substance, or a metabolite of a controlled substance in the 435
whole blood, blood serum or plasma, breath, or urine; 436

(c) A violation of an existing or former municipal 437
ordinance, law of another state, or law of the United States 438
that is substantially equivalent to division (A) of this 439
section; 440

(d) A violation of a former law of this state that was 441
substantially equivalent to division (A) of this section. 442

(7) "Emergency medical technician-intermediate" and 443
"emergency medical technician-paramedic" have the same meanings 444
as in section 4765.01 of the Revised Code. 445

(8) "Tetrahydrocannabinol" has the same meaning as in 446
section 4511.181 of the Revised Code. 447

Sec. 3701.143. (A) As used in this section, "drug of 448
abuse" has the same meaning as in section 4506.01 of the Revised 449
Code. 450

(B) For purposes of sections 1547.11, 4511.19, and 451
4511.194 of the Revised Code, the director of health shall 452
determine, or cause to be determined, techniques or methods for 453
chemically analyzing a person's whole blood, blood serum or 454
plasma, urine, breath, oral fluid, or other bodily substance in 455
order to ascertain the presence or amount of alcohol, a drug of 456
abuse, controlled substance, metabolite of a controlled 457
substance, or combination of them in the person's whole blood, 458
blood serum or plasma, urine, breath, oral fluid, or other 459
bodily substance. The director shall approve satisfactory 460
techniques or methods, ascertain the qualifications of 461
individuals to conduct such analyses, and issue permits to 462

qualified persons authorizing them to perform such analyses. 463
Such permits shall be subject to termination or revocation at 464
the discretion of the director. 465

(C) (1) The authority granted under this section, and any 466
rules adopted pursuant to that authority, does not affect, 467
impair, or limit the admissibility of any evidence regarding 468
either of the following that is otherwise admissible under the 469
Rules of Evidence: 470

(a) Any evidence or testimony regarding the analysis of a 471
person's whole blood, blood serum or plasma, urine, breath, oral 472
fluid, or other bodily substance under this section, division 473
(D) (1) (b) of section 1547.11, or division (D) (1) (b) of section 474
4511.19 of the Revised Code; 475

(b) Any evidence or testimony regarding the method, 476
process, reliability, or equipment used in the process of 477
analyzing a person's whole blood, blood serum or plasma, urine, 478
breath, oral fluid, or other bodily substance under this 479
section, division (D) (1) (b) of section 1547.11, or division (D) 480
(1) (b) of section 4511.19 of the Revised Code. 481

(2) Any evidence or testimony proposed to be admitted 482
under this section, and any evidence or testimony admitted under 483
this section, is subject to division (D) (1) (c) of section 484
1547.11 or division (D) (1) (c) of section 4511.19 of the Revised 485
Code, as applicable. 486

Sec. 4511.181. As used in sections 4511.181 to 4511.198 of 487
the Revised Code: 488

(A) "Equivalent offense" means any of the following: 489

(1) A violation of division (A) of section 4511.19 of the 490
Revised Code; 491

(2) A violation of a municipal OVI ordinance;	492
(3) A violation of section 2903.04 of the Revised Code in	493
a case in which the offender was subject to the sanctions	494
described in division (D) of that section;	495
(4) A violation of division (A)(1) of section 2903.06 or	496
2903.08 of the Revised Code or a municipal ordinance that is	497
substantially equivalent to either of those divisions;	498
(5) A violation of division (A)(2), (3), or (4) of section	499
2903.06, division (A)(2) of section 2903.08, or former section	500
2903.07 of the Revised Code, or a municipal ordinance that is	501
substantially equivalent to any of those divisions or that	502
former section, in a case in which a judge or jury as the trier	503
of fact found that the offender was under the influence of	504
alcohol, a drug of abuse, or a combination of them;	505
(6) A violation of division (A) of section 1547.11 of the	506
Revised Code;	507
(7) A violation of a municipal ordinance prohibiting a	508
person from operating or being in physical control of any vessel	509
underway or from manipulating any water skis, aquaplane, or	510
similar device on the waters of this state while under the	511
influence of alcohol, a drug of abuse, or a combination of them	512
or prohibiting a person from operating or being in physical	513
control of any vessel underway or from manipulating any water	514
skis, aquaplane, or similar device on the waters of this state	515
with a prohibited concentration of alcohol, a controlled	516
substance, or a metabolite of a controlled substance in the	517
whole blood, blood serum or plasma, breath, or urine;	518
(8) A violation of an existing or former municipal	519
ordinance, law of another state, or law of the United States	520

that is substantially equivalent to division (A) of section 521
4511.19 or division (A) of section 1547.11 of the Revised Code; 522

(9) A violation of a former law of this state that was 523
substantially equivalent to division (A) of section 4511.19 or 524
division (A) of section 1547.11 of the Revised Code. 525

(B) "Mandatory jail term" means the mandatory term in jail 526
of three, six, ten, twenty, thirty, or sixty days that must be 527
imposed under division (G)(1)(a), (b), or (c) of section 4511.19 528
of the Revised Code upon an offender convicted of a violation of 529
division (A) of that section and in relation to which all of the 530
following apply: 531

(1) Except as specifically authorized under section 532
4511.19 of the Revised Code, the term must be served in a jail. 533

(2) Except as specifically authorized under section 534
4511.19 of the Revised Code, the term cannot be suspended, 535
reduced, or otherwise modified pursuant to sections 2929.21 to 536
2929.28 or any other provision of the Revised Code. 537

(C) "Municipal OVI ordinance" and "municipal OVI offense" 538
mean any municipal ordinance prohibiting a person from operating 539
a vehicle while under the influence of alcohol, a drug of abuse, 540
or a combination of them or prohibiting a person from operating 541
a vehicle with a prohibited concentration of alcohol, a 542
controlled substance, or a metabolite of a controlled substance 543
in the whole blood, blood serum or plasma, breath, or urine. 544

(D) "Community residential sanction," "continuous alcohol 545
monitoring," "jail," "mandatory prison term," "mandatory term of 546
local incarceration," "sanction," and "prison term" have the 547
same meanings as in section 2929.01 of the Revised Code. 548

(E) "Drug of abuse" has the same meaning as in section 549

4506.01 of the Revised Code. 550

(F) "Equivalent offense that is vehicle-related" means an 551
equivalent offense that is any of the following: 552

(1) A violation described in division (A) (1), (2), (3), 553
(4), or (5) of this section; 554

(2) A violation of an existing or former municipal 555
ordinance, law of another state, or law of the United States 556
that is substantially equivalent to division (A) of section 557
4511.19 of the Revised Code; 558

(3) A violation of a former law of this state that was 559
substantially equivalent to division (A) of section 4511.19 of 560
the Revised Code. 561

(G) "Tetrahydrocannabinol" means naturally occurring or 562
synthetic equivalents, regardless of whether artificially or 563
naturally derived, of the substances contained in the plant, or 564
in the resinous extractives of cannabis, sp. or derivatives, and 565
their isomers with similar chemical structure to delta-1-cis or 566
trans tetrahydrocannabinol, and their optical isomers, salts and 567
salts of isomers. Since nomenclature of these substances is not 568
internationally standardized, compounds of these structures, 569
regardless of designation of atomic positions, are included. 570

Sec. 4511.19. (A) (1) No person shall operate any vehicle, 571
streetcar, or trackless trolley within this state, if, at the 572
time of the operation, any of the following apply: 573

(a) The person is under the influence of alcohol, a drug 574
of abuse, or a combination of them. 575

(b) The person has a concentration of eight-hundredths of 576
one per cent or more but less than seventeen-hundredths of one 577

per cent by weight per unit volume of alcohol in the person's 578
whole blood. 579

(c) The person has a concentration of ninety-six- 580
thousandths of one per cent or more but less than two hundred 581
four-thousandths of one per cent by weight per unit volume of 582
alcohol in the person's blood serum or plasma. 583

(d) The person has a concentration of eight-hundredths of 584
one gram or more but less than seventeen-hundredths of one gram 585
by weight of alcohol per two hundred ten liters of the person's 586
breath. 587

(e) The person has a concentration of eleven-hundredths of 588
one gram or more but less than two hundred thirty-eight- 589
thousandths of one gram by weight of alcohol per one hundred 590
milliliters of the person's urine. 591

(f) The person has a concentration of seventeen-hundredths 592
of one per cent or more by weight per unit volume of alcohol in 593
the person's whole blood. 594

(g) The person has a concentration of two hundred four- 595
thousandths of one per cent or more by weight per unit volume of 596
alcohol in the person's blood serum or plasma. 597

(h) The person has a concentration of seventeen-hundredths 598
of one gram or more by weight of alcohol per two hundred ten 599
liters of the person's breath. 600

(i) The person has a concentration of two hundred thirty- 601
eight-thousandths of one gram or more by weight of alcohol per 602
one hundred milliliters of the person's urine. 603

(j) Except as provided in division (K) of this section, 604
the person has a concentration of any of the following 605

controlled substances or metabolites of a controlled substance 606
in the person's whole blood, blood serum or plasma, or urine 607
that equals or exceeds any of the following: 608

(i) The person has a concentration of amphetamine in the 609
person's urine of at least five hundred nanograms of amphetamine 610
per milliliter of the person's urine or has a concentration of 611
amphetamine in the person's whole blood or blood serum or plasma 612
of at least one hundred nanograms of amphetamine per milliliter 613
of the person's whole blood or blood serum or plasma. 614

(ii) The person has a concentration of cocaine in the 615
person's urine of at least one hundred fifty nanograms of 616
cocaine per milliliter of the person's urine or has a 617
concentration of cocaine in the person's whole blood or blood 618
serum or plasma of at least fifty nanograms of cocaine per 619
milliliter of the person's whole blood or blood serum or plasma. 620

(iii) The person has a concentration of cocaine metabolite 621
in the person's urine of at least one hundred fifty nanograms of 622
cocaine metabolite per milliliter of the person's urine or has a 623
concentration of cocaine metabolite in the person's whole blood 624
or blood serum or plasma of at least fifty nanograms of cocaine 625
metabolite per milliliter of the person's whole blood or blood 626
serum or plasma. 627

(iv) The person has a concentration of heroin in the 628
person's urine of at least two thousand nanograms of heroin per 629
milliliter of the person's urine or has a concentration of 630
heroin in the person's whole blood or blood serum or plasma of 631
at least fifty nanograms of heroin per milliliter of the 632
person's whole blood or blood serum or plasma. 633

(v) The person has a concentration of heroin metabolite 634

(6-monoacetyl morphine) in the person's urine of at least ten 635
nanograms of heroin metabolite (6-monoacetyl morphine) per 636
milliliter of the person's urine or has a concentration of 637
heroin metabolite (6-monoacetyl morphine) in the person's whole 638
blood or blood serum or plasma of at least ten nanograms of 639
heroin metabolite (6-monoacetyl morphine) per milliliter of the 640
person's whole blood or blood serum or plasma. 641

(vi) The person has a concentration of L.S.D. in the 642
person's urine of at least twenty-five nanograms of L.S.D. per 643
milliliter of the person's urine or a concentration of L.S.D. in 644
the person's whole blood or blood serum or plasma of at least 645
ten nanograms of L.S.D. per milliliter of the person's whole 646
blood or blood serum or plasma. 647

(vii) The person has a concentration of marihuana ~~in the~~ 648
~~person's urine of at least ten nanograms of marihuana per~~ 649
~~milliliter of the person's urine or has a concentration of~~ 650
~~marihuana (tetrahydrocannabinol) in the person's whole blood or~~ 651
~~blood serum or plasma of at least two-five nanograms of~~ 652
~~marihuana tetrahydrocannabinol per milliliter of the person's~~ 653
~~whole blood or blood serum or plasma.~~ 654

(viii) ~~Either of the following applies:~~ 655

~~(I) The person is under the influence of alcohol, a drug~~ 656
~~of abuse, or a combination of them, and the person has a~~ 657
~~concentration of marihuana metabolite in the person's urine of~~ 658
~~at least fifteen nanograms of marihuana metabolite per~~ 659
~~milliliter of the person's urine or has a concentration of~~ 660
~~marihuana metabolite in the person's whole blood or blood serum~~ 661
~~or plasma of at least five nanograms of marihuana metabolite per~~ 662
~~milliliter of the person's whole blood or blood serum or plasma.~~ 663

~~(II) The person has a concentration of marihuana-~~ 664
~~metabolite in the person's urine of at least thirty-five~~ 665
~~nanograms of marihuana metabolite per milliliter of the person's~~ 666
~~urine or has a concentration of marihuana metabolite in the~~ 667
~~person's whole blood or blood serum or plasma of at least fifty~~ 668
~~nanograms of marihuana metabolite per milliliter of the person's~~ 669
~~whole blood or blood serum or plasma.~~ 670

~~(ix)~~ The person has a concentration of methamphetamine in 671
the person's urine of at least five hundred nanograms of 672
methamphetamine per milliliter of the person's urine or has a 673
concentration of methamphetamine in the person's whole blood or 674
blood serum or plasma of at least one hundred nanograms of 675
methamphetamine per milliliter of the person's whole blood or 676
blood serum or plasma. 677

~~(x)~~ (ix) The person has a concentration of phencyclidine in 678
the person's urine of at least twenty-five nanograms of 679
phencyclidine per milliliter of the person's urine or has a 680
concentration of phencyclidine in the person's whole blood or 681
blood serum or plasma of at least ten nanograms of phencyclidine 682
per milliliter of the person's whole blood or blood serum or 683
plasma. 684

~~(xi)~~ (x) The state board of pharmacy has adopted a rule 685
pursuant to section 4729.041 of the Revised Code that specifies 686
the amount of salvia divinorum and the amount of salvinorin A 687
that constitute concentrations of salvia divinorum and 688
salvinorin A in a person's urine, in a person's whole blood, or 689
in a person's blood serum or plasma at or above which the person 690
is impaired for purposes of operating any vehicle, streetcar, or 691
trackless trolley within this state, the rule is in effect, and 692
the person has a concentration of salvia divinorum or salvinorin 693

A of at least that amount so specified by rule in the person's 694
urine, in the person's whole blood, or in the person's blood 695
serum or plasma. 696

(2) No person who, within twenty years of the conduct 697
described in division (A)(2)(a) of this section, previously has 698
been convicted of or pleaded guilty to a violation of this 699
division, a violation of division (A)(1) of this section, or any 700
other equivalent offense shall do both of the following: 701

(a) Operate any vehicle, streetcar, or trackless trolley 702
within this state while under the influence of alcohol, a drug 703
of abuse, or a combination of them; 704

(b) Subsequent to being arrested for operating the 705
vehicle, streetcar, or trackless trolley as described in 706
division (A)(2)(a) of this section, being asked by a law 707
enforcement officer to submit to a chemical test or tests under 708
section 4511.191 of the Revised Code, and being advised by the 709
officer in accordance with section 4511.192 of the Revised Code 710
of the consequences of the person's refusal or submission to the 711
test or tests, refuse to submit to the test or tests. 712

(B) No person under twenty-one years of age shall operate 713
any vehicle, streetcar, or trackless trolley within this state, 714
if, at the time of the operation, any of the following apply: 715

(1) The person has a concentration of at least two- 716
hundredths of one per cent but less than eight-hundredths of one 717
per cent by weight per unit volume of alcohol in the person's 718
whole blood. 719

(2) The person has a concentration of at least three- 720
hundredths of one per cent but less than ninety-six-thousandths 721
of one per cent by weight per unit volume of alcohol in the 722

person's blood serum or plasma. 723

(3) The person has a concentration of at least two- 724
hundredths of one gram but less than eight-hundredths of one 725
gram by weight of alcohol per two hundred ten liters of the 726
person's breath. 727

(4) The person has a concentration of at least twenty- 728
eight one-thousandths of one gram but less than eleven- 729
hundredths of one gram by weight of alcohol per one hundred 730
milliliters of the person's urine. 731

(C) In any proceeding arising out of one incident, a 732
person may be charged with a violation of division (A) (1) (a) or 733
(A) (2) and a violation of division (B) (1), (2), or (3) of this 734
section, but the person may not be convicted of more than one 735
violation of these divisions. 736

(D) (1) (a) In any criminal prosecution or juvenile court 737
proceeding for a violation of division (A) (1) (a) of this section 738
or for an equivalent offense that is vehicle-related, the result 739
of any test of any blood, oral fluid, or urine withdrawn and 740
analyzed at any health care provider, as defined in section 741
2317.02 of the Revised Code, may be admitted with expert 742
testimony to be considered with any other relevant and competent 743
evidence in determining the guilt or innocence of the defendant. 744

(b) In any criminal prosecution or juvenile court 745
proceeding for a violation of division (A) or (B) of this 746
section or for an equivalent offense that is vehicle-related, 747
the court may admit evidence on the presence and concentration 748
of alcohol, drugs of abuse, controlled substances, metabolites 749
of a controlled substance, or a combination of them in the 750
defendant's whole blood, blood serum or plasma, breath, urine, 751

oral fluid, or other bodily substance at the time of the alleged 752
violation as shown by chemical analysis of the substance 753
withdrawn within three hours of the time of the alleged 754
violation. The three-hour time limit specified in this division 755
regarding the admission of evidence does not extend or affect 756
the two-hour time limit specified in division (A) of section 757
4511.192 of the Revised Code as the maximum period of time 758
during which a person may consent to a chemical test or tests as 759
described in that section. The court may admit evidence on the 760
presence and concentration of alcohol, drugs of abuse, or a 761
combination of them as described in this division when a person 762
submits to a blood, breath, urine, oral fluid, or other bodily 763
substance test at the request of a law enforcement officer under 764
section 4511.191 of the Revised Code or a blood or urine sample 765
is obtained pursuant to a search warrant. Only a physician, a 766
registered nurse, an emergency medical technician-intermediate, 767
an emergency medical technician-paramedic, or a qualified 768
technician, chemist, or phlebotomist shall withdraw a blood 769
sample for the purpose of determining the alcohol, drug, 770
controlled substance, metabolite of a controlled substance, or 771
combination content of the whole blood, blood serum, or blood 772
plasma. This limitation does not apply to the taking of breath, 773
oral fluid, or urine specimens. A person authorized to withdraw 774
blood under this division may refuse to withdraw blood under 775
this division, if in that person's opinion, the physical welfare 776
of the person would be endangered by the withdrawing of blood. 777

The bodily substance withdrawn under division (D) (1) (b) of 778
this section shall be analyzed in accordance with methods 779
approved by the director of health by an individual possessing a 780
valid permit issued by the director pursuant to section 3701.143 781
of the Revised Code. 782

~~(e)~~(c) (i) Any evidence or testimony proposed to be 783
admitted under division (D) (1) (b) of this section is subject to 784
the Rules of Evidence, including Evid. R. 702 regarding expert 785
testimony. 786

(ii) The admissibility of any evidence or testimony under 787
division (D) (1) (b) of this section regarding the presence and 788
concentration of alcohol, a drug of abuse, or a combination of 789
them in a person's whole blood, blood serum or plasma, urine, 790
breath, oral fluid, or other bodily substance does not affect, 791
impair, or limit the admissibility of either of the following 792
that is otherwise admissible under the Rules of Evidence: 793

(I) Any evidence or testimony regarding the analysis of a 794
person's whole blood, blood serum or plasma, urine, breath, oral 795
fluid, or other bodily substance under section 3701.143 of the 796
Revised Code; 797

(II) Any evidence or testimony regarding the method, 798
process, reliability, or equipment used in the process of 799
analyzing a person's whole blood, blood serum or plasma, urine, 800
breath, oral fluid, or other bodily substance under section 801
3701.143 of the Revised Code. 802

The trier of fact shall give any evidence or testimony 803
admitted by the court under division (D) (1) (c) of this section 804
whatever weight the trier of fact considers to be appropriate. 805

(d) As used in division (D) (1) (b) of this section, 806
"emergency medical technician-intermediate" and "emergency 807
medical technician-paramedic" have the same meanings as in 808
section 4765.01 of the Revised Code. 809

(2) In a criminal prosecution or juvenile court proceeding 810
for a violation of division (A) of this section or for an 811

equivalent offense that is vehicle-related, if there was at the 812
time the bodily substance was withdrawn a concentration of less 813
than the applicable concentration of alcohol specified in 814
divisions (A) (1) (b), (c), (d), and (e) of this section or less 815
than the applicable concentration of a listed controlled 816
substance or a listed metabolite of a controlled substance 817
specified for a violation of division (A) (1) (j) of this section, 818
that fact may be considered with other competent evidence in 819
determining the guilt or innocence of the defendant. This 820
division does not limit or affect a criminal prosecution or 821
juvenile court proceeding for a violation of division (B) of 822
this section or for an equivalent offense that is substantially 823
equivalent to that division. 824

(3) Upon the request of the person who was tested, the 825
results of the chemical test shall be made available to the 826
person or the person's attorney, immediately upon the completion 827
of the chemical test analysis. 828

If the chemical test was obtained pursuant to division (D) 829
(1) (b) of this section, the person tested may have a physician, 830
a registered nurse, or a qualified technician, chemist, or 831
phlebotomist of the person's own choosing administer a chemical 832
test or tests, at the person's expense, in addition to any 833
administered at the request of a law enforcement officer. If the 834
person was under arrest as described in division (A) (5) of 835
section 4511.191 of the Revised Code, the arresting officer 836
shall advise the person at the time of the arrest that the 837
person may have an independent chemical test taken at the 838
person's own expense. If the person was under arrest other than 839
described in division (A) (5) of section 4511.191 of the Revised 840
Code, the form to be read to the person to be tested, as 841
required under section 4511.192 of the Revised Code, shall state 842

that the person may have an independent test performed at the 843
person's expense. The failure or inability to obtain an 844
additional chemical test by a person shall not preclude the 845
admission of evidence relating to the chemical test or tests 846
taken at the request of a law enforcement officer. 847

(4) (a) As used in divisions (D) (4) (b) and (c) of this 848
section, "national highway traffic safety administration" means 849
the national highway traffic safety administration established 850
as an administration of the United States department of 851
transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105. 852

(b) In any criminal prosecution or juvenile court 853
proceeding for a violation of division (A) or (B) of this 854
section, of a municipal ordinance relating to operating a 855
vehicle while under the influence of alcohol, a drug of abuse, 856
or alcohol and a drug of abuse, or of a municipal ordinance 857
relating to operating a vehicle with a prohibited concentration 858
of alcohol, a controlled substance, or a metabolite of a 859
controlled substance in the whole blood, blood serum or plasma, 860
breath, oral fluid, or urine, if a law enforcement officer has 861
administered a field sobriety test to the operator of the 862
vehicle involved in the violation and if it is shown by clear 863
and convincing evidence that the officer administered the test 864
in substantial compliance with the testing standards for any 865
reliable, credible, and generally accepted field sobriety tests 866
that were in effect at the time the tests were administered, 867
including, but not limited to, any testing standards then in 868
effect that were set by the national highway traffic safety 869
administration, all of the following apply: 870

(i) The officer may testify concerning the results of the 871
field sobriety test so administered. 872

(ii) The prosecution may introduce the results of the 873
field sobriety test so administered as evidence in any 874
proceedings in the criminal prosecution or juvenile court 875
proceeding. 876

(iii) If testimony is presented or evidence is introduced 877
under division (D) (4) (b) (i) or (ii) of this section and if the 878
testimony or evidence is admissible under the Rules of Evidence, 879
the court shall admit the testimony or evidence and the trier of 880
fact shall give it whatever weight the trier of fact considers 881
to be appropriate. 882

(c) Division (D) (4) (b) of this section does not limit or 883
preclude a court, in its determination of whether the arrest of 884
a person was supported by probable cause or its determination of 885
any other matter in a criminal prosecution or juvenile court 886
proceeding of a type described in that division, from 887
considering evidence or testimony that is not otherwise 888
disallowed by division (D) (4) (b) of this section. 889

(5) (a) A trier of fact may infer that a person is under 890
the influence of marihuana in violation of division (A) (1) (a) of 891
this section if any of the following apply: 892

(i) The person has a concentration of at least twenty-five 893
nanograms of tetrahydrocannabinol per milliliter of the person's 894
urine. 895

(ii) The person has a concentration of at least two but 896
less than five nanograms of tetrahydrocannabinol per milliliter 897
of the person's whole blood. 898

(iii) The person has a concentration of at least five 899
nanograms of tetrahydrocannabinol per milliliter of the person's 900
oral fluid. 901

(b) (i) If the court admits any evidence or testimony 902
submitted by the prosecution under division (D) (1) (b) of this 903
section that demonstrates that a person had a concentration of 904
tetrahydrocannabinol that is within one of the levels specified 905
in division (D) (5) (a) of this section, the trier of fact may, 906
without expert testimony, infer that the person was under the 907
influence of marihuana in violation of division (A) (1) (a) of 908
this section. 909

(ii) The inference that a person was under the influence 910
of marihuana in violation of division (A) (1) (a) of this section 911
may be supported or rebutted by either party with any evidence 912
or testimony that complies with the Rules of Evidence. 913

(c) In determining whether a person was under the 914
influence of marihuana, the trier of fact shall consider all 915
relevant and competent evidence, including the inference, and 916
give the evidence whatever weight the trier of fact considers to 917
be appropriate. 918

(E) (1) Subject to division (E) (3) of this section, in any 919
criminal prosecution or juvenile court proceeding for a 920
violation of division (A) (1) (b), (c), (d), (e), (f), (g), (h), 921
(i), or (j) or (B) (1), (2), (3), or (4) of this section or for 922
an equivalent offense that is substantially equivalent to any of 923
those divisions, a laboratory report from any laboratory 924
personnel issued a permit by the department of health 925
authorizing an analysis as described in this division that 926
contains an analysis of the whole blood, blood serum or plasma, 927
breath, urine, or other bodily substance tested and that 928
contains all of the information specified in this division shall 929
be admitted as prima-facie evidence of the information and 930
statements that the report contains. The laboratory report shall 931

contain all of the following: 932

(a) The signature, under oath, of any person who performed 933
the analysis; 934

(b) Any findings as to the identity and quantity of 935
alcohol, a drug of abuse, a controlled substance, a metabolite 936
of a controlled substance, or a combination of them that was 937
found; 938

(c) A copy of a notarized statement by the laboratory 939
director or a designee of the director that contains the name of 940
each certified analyst or test performer involved with the 941
report, the analyst's or test performer's employment 942
relationship with the laboratory that issued the report, and a 943
notation that performing an analysis of the type involved is 944
part of the analyst's or test performer's regular duties; 945

(d) An outline of the analyst's or test performer's 946
education, training, and experience in performing the type of 947
analysis involved and a certification that the laboratory 948
satisfies appropriate quality control standards in general and, 949
in this particular analysis, under rules of the department of 950
health. 951

(2) Notwithstanding any other provision of law regarding 952
the admission of evidence, a report of the type described in 953
division (E)(1) of this section is not admissible against the 954
defendant to whom it pertains in any proceeding, other than a 955
preliminary hearing or a grand jury proceeding, unless the 956
prosecutor has served a copy of the report on the defendant's 957
attorney or, if the defendant has no attorney, on the defendant. 958

(3) A report of the type described in division (E)(1) of 959
this section shall not be prima-facie evidence of the contents, 960

identity, or amount of any substance if, within seven days after 961
the defendant to whom the report pertains or the defendant's 962
attorney receives a copy of the report, the defendant or the 963
defendant's attorney demands the testimony of the person who 964
signed the report. The judge in the case may extend the seven- 965
day time limit in the interest of justice. 966

(F) Except as otherwise provided in this division, any 967
physician, registered nurse, emergency medical technician- 968
intermediate, emergency medical technician-paramedic, or 969
qualified technician, chemist, or phlebotomist who withdraws 970
blood from a person pursuant to this section or section 4511.191 971
or 4511.192 of the Revised Code, and any hospital, first-aid 972
station, or clinic at which blood is withdrawn from a person 973
pursuant to this section or section 4511.191 or 4511.192 of the 974
Revised Code, is immune from criminal liability and civil 975
liability based upon a claim of assault and battery or any other 976
claim that is not a claim of malpractice, for any act performed 977
in withdrawing blood from the person. The immunity provided in 978
this division also extends to an emergency medical service 979
organization that employs an emergency medical technician- 980
intermediate or emergency medical technician-paramedic who 981
withdraws blood under this section. The immunity provided in 982
this division is not available to a person who withdraws blood 983
if the person engages in willful or wanton misconduct. 984

As used in this division, "emergency medical technician- 985
intermediate" and "emergency medical technician-paramedic" have 986
the same meanings as in section 4765.01 of the Revised Code. 987

(G) (1) Whoever violates any provision of divisions (A) (1) 988
(a) to (i) or (A) (2) of this section is guilty of operating a 989
vehicle under the influence of alcohol, a drug of abuse, or a 990

combination of them. Whoever violates division (A)(1)(j) of this 991
section is guilty of operating a vehicle while under the 992
influence of a listed controlled substance or a listed 993
metabolite of a controlled substance. The court shall sentence 994
the offender for either offense under Chapter 2929. of the 995
Revised Code, except as otherwise authorized or required by 996
divisions (G)(1)(a) to (e) of this section: 997

(a) Except as otherwise provided in division (G)(1)(b), 998
(c), (d), or (e) of this section, the offender is guilty of a 999
misdemeanor of the first degree, and the court shall sentence 1000
the offender to all of the following: 1001

(i) If the sentence is being imposed for a violation of 1002
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, 1003
a mandatory jail term of three consecutive days. As used in this 1004
division, three consecutive days means seventy-two consecutive 1005
hours. The court may sentence an offender to both an 1006
intervention program and a jail term. The court may impose a 1007
jail term in addition to the three-day mandatory jail term or 1008
intervention program. However, in no case shall the cumulative 1009
jail term imposed for the offense exceed six months. 1010

The court may suspend the execution of the three-day jail 1011
term under this division if the court, in lieu of that suspended 1012
term, places the offender under a community control sanction 1013
pursuant to section 2929.25 of the Revised Code and requires the 1014
offender to attend, for three consecutive days, a drivers' 1015
intervention program certified under section 5119.38 of the 1016
Revised Code. The court also may suspend the execution of any 1017
part of the three-day jail term under this division if it places 1018
the offender under a community control sanction pursuant to 1019
section 2929.25 of the Revised Code for part of the three days, 1020

requires the offender to attend for the suspended part of the 1021
term a drivers' intervention program so certified, and sentences 1022
the offender to a jail term equal to the remainder of the three 1023
consecutive days that the offender does not spend attending the 1024
program. The court may require the offender, as a condition of 1025
community control and in addition to the required attendance at 1026
a drivers' intervention program, to attend and satisfactorily 1027
complete any treatment or education programs that comply with 1028
the minimum standards adopted pursuant to Chapter 5119. of the 1029
Revised Code by the director of mental health and addiction 1030
services that the operators of the drivers' intervention program 1031
determine that the offender should attend and to report 1032
periodically to the court on the offender's progress in the 1033
programs. The court also may impose on the offender any other 1034
conditions of community control that it considers necessary. 1035

If the court grants unlimited driving privileges to a 1036
first-time offender under section 4510.022 of the Revised Code, 1037
all penalties imposed upon the offender by the court under 1038
division (G)(1)(a)(i) of this section for the offense apply, 1039
except that the court shall suspend any mandatory or additional 1040
jail term imposed by the court under division (G)(1)(a)(i) of 1041
this section upon granting unlimited driving privileges in 1042
accordance with section 4510.022 of the Revised Code. 1043

(ii) If the sentence is being imposed for a violation of 1044
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1045
section, except as otherwise provided in this division, a 1046
mandatory jail term of at least three consecutive days and a 1047
requirement that the offender attend, for three consecutive 1048
days, a drivers' intervention program that is certified pursuant 1049
to section 5119.38 of the Revised Code. As used in this 1050
division, three consecutive days means seventy-two consecutive 1051

hours. If the court determines that the offender is not 1052
conducive to treatment in a drivers' intervention program, if 1053
the offender refuses to attend a drivers' intervention program, 1054
or if the jail at which the offender is to serve the jail term 1055
imposed can provide a driver's intervention program, the court 1056
shall sentence the offender to a mandatory jail term of at least 1057
six consecutive days. 1058

If the court grants unlimited driving privileges to a 1059
first-time offender under section 4510.022 of the Revised Code, 1060
all penalties imposed upon the offender by the court under 1061
division (G)(1)(a)(ii) of this section for the offense apply, 1062
except that the court shall suspend any mandatory or additional 1063
jail term imposed by the court under division (G)(1)(a)(ii) of 1064
this section upon granting unlimited driving privileges in 1065
accordance with section 4510.022 of the Revised Code. 1066

The court may require the offender, under a community 1067
control sanction imposed under section 2929.25 of the Revised 1068
Code, to attend and satisfactorily complete any treatment or 1069
education programs that comply with the minimum standards 1070
adopted pursuant to Chapter 5119. of the Revised Code by the 1071
director of mental health and addiction services, in addition to 1072
the required attendance at drivers' intervention program, that 1073
the operators of the drivers' intervention program determine 1074
that the offender should attend and to report periodically to 1075
the court on the offender's progress in the programs. The court 1076
also may impose any other conditions of community control on the 1077
offender that it considers necessary. 1078

(iii) In all cases, a fine of not less than five hundred 1079
sixty-five and not more than one thousand seventy-five dollars; 1080

(iv) In all cases, a suspension of the offender's driver's 1081

or commercial driver's license or permit or nonresident 1082
operating privilege for a definite period of one to three years. 1083
The court may grant limited driving privileges relative to the 1084
suspension under sections 4510.021 and 4510.13 of the Revised 1085
Code. The court may grant unlimited driving privileges with an 1086
ignition interlock device relative to the suspension and may 1087
reduce the period of suspension as authorized under section 1088
4510.022 of the Revised Code. 1089

(b) Except as otherwise provided in division (G)(1)(e) of 1090
this section, an offender who, within ten years of the offense, 1091
previously has been convicted of or pleaded guilty to one 1092
violation of division (A) of this section or one other 1093
equivalent offense is guilty of a misdemeanor of the first 1094
degree. The court shall sentence the offender to all of the 1095
following: 1096

(i) If the sentence is being imposed for a violation of 1097
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, 1098
a mandatory jail term of ten consecutive days. The court shall 1099
impose the ten-day mandatory jail term under this division 1100
unless, subject to division (G)(3) of this section, it instead 1101
imposes a sentence under that division consisting of both a jail 1102
term and a term of house arrest with electronic monitoring, with 1103
continuous alcohol monitoring, or with both electronic 1104
monitoring and continuous alcohol monitoring. The court may 1105
impose a jail term in addition to the ten-day mandatory jail 1106
term. The cumulative jail term imposed for the offense shall not 1107
exceed six months. 1108

In addition to the jail term or the term of house arrest 1109
with electronic monitoring or continuous alcohol monitoring or 1110
both types of monitoring and jail term, the court shall require 1111

the offender to be assessed by a community addiction services 1112
provider that is authorized by section 5119.21 of the Revised 1113
Code, subject to division (I) of this section, and shall order 1114
the offender to follow the treatment recommendations of the 1115
services provider. The purpose of the assessment is to determine 1116
the degree of the offender's alcohol usage and to determine 1117
whether or not treatment is warranted. Upon the request of the 1118
court, the services provider shall submit the results of the 1119
assessment to the court, including all treatment recommendations 1120
and clinical diagnoses related to alcohol use. 1121

(ii) If the sentence is being imposed for a violation of 1122
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1123
section, except as otherwise provided in this division, a 1124
mandatory jail term of twenty consecutive days. The court shall 1125
impose the twenty-day mandatory jail term under this division 1126
unless, subject to division (G)(3) of this section, it instead 1127
imposes a sentence under that division consisting of both a jail 1128
term and a term of house arrest with electronic monitoring, with 1129
continuous alcohol monitoring, or with both electronic 1130
monitoring and continuous alcohol monitoring. The court may 1131
impose a jail term in addition to the twenty-day mandatory jail 1132
term. The cumulative jail term imposed for the offense shall not 1133
exceed six months. 1134

In addition to the jail term or the term of house arrest 1135
with electronic monitoring or continuous alcohol monitoring or 1136
both types of monitoring and jail term, the court shall require 1137
the offender to be assessed by a community addiction service 1138
provider that is authorized by section 5119.21 of the Revised 1139
Code, subject to division (I) of this section, and shall order 1140
the offender to follow the treatment recommendations of the 1141
services provider. The purpose of the assessment is to determine 1142

the degree of the offender's alcohol usage and to determine 1143
whether or not treatment is warranted. Upon the request of the 1144
court, the services provider shall submit the results of the 1145
assessment to the court, including all treatment recommendations 1146
and clinical diagnoses related to alcohol use. 1147

(iii) In all cases, notwithstanding the fines set forth in 1148
Chapter 2929. of the Revised Code, a fine of not less than seven 1149
hundred fifteen and not more than one thousand six hundred 1150
twenty-five dollars; 1151

(iv) In all cases, a suspension of the offender's driver's 1152
license, commercial driver's license, temporary instruction 1153
permit, probationary license, or nonresident operating privilege 1154
for a definite period of one to seven years. The court may grant 1155
limited driving privileges relative to the suspension under 1156
sections 4510.021 and 4510.13 of the Revised Code. 1157

(v) In all cases, if the vehicle is registered in the 1158
offender's name, immobilization of the vehicle involved in the 1159
offense for ninety days in accordance with section 4503.233 of 1160
the Revised Code and impoundment of the license plates of that 1161
vehicle for ninety days. 1162

(c) Except as otherwise provided in division (G) (1) (e) of 1163
this section, an offender who, within ten years of the offense, 1164
previously has been convicted of or pleaded guilty to two 1165
violations of division (A) of this section or other equivalent 1166
offenses is guilty of a misdemeanor. The court shall sentence 1167
the offender to all of the following: 1168

(i) If the sentence is being imposed for a violation of 1169
division (A) (1) (a), (b), (c), (d), (e), or (j) of this section, 1170
a mandatory jail term of thirty consecutive days. The court 1171

shall impose the thirty-day mandatory jail term under this 1172
division unless, subject to division (G)(3) of this section, it 1173
instead imposes a sentence under that division consisting of 1174
both a jail term and a term of house arrest with electronic 1175
monitoring, with continuous alcohol monitoring, or with both 1176
electronic monitoring and continuous alcohol monitoring. The 1177
court may impose a jail term in addition to the thirty-day 1178
mandatory jail term. Notwithstanding the jail terms set forth in 1179
sections 2929.21 to 2929.28 of the Revised Code, the additional 1180
jail term shall not exceed one year, and the cumulative jail 1181
term imposed for the offense shall not exceed one year. 1182

(ii) If the sentence is being imposed for a violation of 1183
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1184
section, a mandatory jail term of sixty consecutive days. The 1185
court shall impose the sixty-day mandatory jail term under this 1186
division unless, subject to division (G)(3) of this section, it 1187
instead imposes a sentence under that division consisting of 1188
both a jail term and a term of house arrest with electronic 1189
monitoring, with continuous alcohol monitoring, or with both 1190
electronic monitoring and continuous alcohol monitoring. The 1191
court may impose a jail term in addition to the sixty-day 1192
mandatory jail term. Notwithstanding the jail terms set forth in 1193
sections 2929.21 to 2929.28 of the Revised Code, the additional 1194
jail term shall not exceed one year, and the cumulative jail 1195
term imposed for the offense shall not exceed one year. 1196

(iii) In all cases, notwithstanding the fines set forth in 1197
Chapter 2929. of the Revised Code, a fine of not less than one 1198
thousand forty and not more than two thousand seven hundred 1199
fifty dollars; 1200

(iv) In all cases, a suspension of the offender's driver's 1201

license, commercial driver's license, temporary instruction 1202
permit, probationary license, or nonresident operating privilege 1203
for a definite period of two to twelve years. The court may 1204
grant limited driving privileges relative to the suspension 1205
under sections 4510.021 and 4510.13 of the Revised Code. 1206

(v) In all cases, if the vehicle is registered in the 1207
offender's name, criminal forfeiture of the vehicle involved in 1208
the offense in accordance with section 4503.234 of the Revised 1209
Code. Division (G) (6) of this section applies regarding any 1210
vehicle that is subject to an order of criminal forfeiture under 1211
this division. 1212

(vi) In all cases, the court shall order the offender to 1213
participate with a community addiction services provider 1214
authorized by section 5119.21 of the Revised Code, subject to 1215
division (I) of this section, and shall order the offender to 1216
follow the treatment recommendations of the services provider. 1217
The operator of the services provider shall determine and assess 1218
the degree of the offender's alcohol dependency and shall make 1219
recommendations for treatment. Upon the request of the court, 1220
the services provider shall submit the results of the assessment 1221
to the court, including all treatment recommendations and 1222
clinical diagnoses related to alcohol use. 1223

(d) Except as otherwise provided in division (G) (1) (e) of 1224
this section, an offender who, within ten years of the offense, 1225
previously has been convicted of or pleaded guilty to three or 1226
four violations of division (A) of this section or other 1227
equivalent offenses, an offender who, within twenty years of the 1228
offense, previously has been convicted of or pleaded guilty to 1229
five or more violations of that nature, or an offender who 1230
previously has been convicted of or pleaded guilty to a 1231

specification of the type described in section 2941.1413 of the Revised Code, is guilty of a felony of the fourth degree. The court shall sentence the offender to all of the following:

(i) If the sentence is being imposed for a violation of division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a mandatory prison term of one, two, three, four, or five years as required by and in accordance with division (G)(2) of section 2929.13 of the Revised Code if the offender also is convicted of or also pleads guilty to a specification of the type described in section 2941.1413 of the Revised Code or, in the discretion of the court, either a mandatory term of local incarceration of sixty consecutive days in accordance with division (G)(1) of section 2929.13 of the Revised Code or a mandatory prison term of sixty consecutive days in accordance with division (G)(2) of that section if the offender is not convicted of and does not plead guilty to a specification of that type. If the court imposes a mandatory term of local incarceration, it may impose a jail term in addition to the sixty-day mandatory term, the cumulative total of the mandatory term and the jail term for the offense shall not exceed one year, and, except as provided in division (A)(1) of section 2929.13 of the Revised Code, no prison term is authorized for the offense. If the court imposes a mandatory prison term, notwithstanding division (A)(4) of section 2929.14 of the Revised Code, it also may sentence the offender to a definite prison term that shall be not less than six months and not more than thirty months and the prison terms shall be imposed as described in division (G)(2) of section 2929.13 of the Revised Code. If the court imposes a mandatory prison term or mandatory prison term and additional prison term, in addition to the term or terms so imposed, the court also may sentence the offender to a community control sanction for the

offense, but the offender shall serve all of the prison terms so 1263
imposed prior to serving the community control sanction. 1264

(ii) If the sentence is being imposed for a violation of 1265
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1266
section, a mandatory prison term of one, two, three, four, or 1267
five years as required by and in accordance with division (G)(2) 1268
of section 2929.13 of the Revised Code if the offender also is 1269
convicted of or also pleads guilty to a specification of the 1270
type described in section 2941.1413 of the Revised Code or, in 1271
the discretion of the court, either a mandatory term of local 1272
incarceration of one hundred twenty consecutive days in 1273
accordance with division (G)(1) of section 2929.13 of the 1274
Revised Code or a mandatory prison term of one hundred twenty 1275
consecutive days in accordance with division (G)(2) of that 1276
section if the offender is not convicted of and does not plead 1277
guilty to a specification of that type. If the court imposes a 1278
mandatory term of local incarceration, it may impose a jail term 1279
in addition to the one hundred twenty-day mandatory term, the 1280
cumulative total of the mandatory term and the jail term for the 1281
offense shall not exceed one year, and, except as provided in 1282
division (A)(1) of section 2929.13 of the Revised Code, no 1283
prison term is authorized for the offense. If the court imposes 1284
a mandatory prison term, notwithstanding division (A)(4) of 1285
section 2929.14 of the Revised Code, it also may sentence the 1286
offender to a definite prison term that shall be not less than 1287
six months and not more than thirty months and the prison terms 1288
shall be imposed as described in division (G)(2) of section 1289
2929.13 of the Revised Code. If the court imposes a mandatory 1290
prison term or mandatory prison term and additional prison term, 1291
in addition to the term or terms so imposed, the court also may 1292
sentence the offender to a community control sanction for the 1293

offense, but the offender shall serve all of the prison terms so 1294
imposed prior to serving the community control sanction. 1295

(iii) In all cases, notwithstanding section 2929.18 of the 1296
Revised Code, a fine of not less than one thousand five hundred 1297
forty nor more than ten thousand five hundred dollars; 1298

(iv) In all cases, a class two license suspension of the 1299
offender's driver's license, commercial driver's license, 1300
temporary instruction permit, probationary license, or 1301
nonresident operating privilege from the range specified in 1302
division (A)(2) of section 4510.02 of the Revised Code. The 1303
court may grant limited driving privileges relative to the 1304
suspension under sections 4510.021 and 4510.13 of the Revised 1305
Code. 1306

(v) In all cases, if the vehicle is registered in the 1307
offender's name, criminal forfeiture of the vehicle involved in 1308
the offense in accordance with section 4503.234 of the Revised 1309
Code. Division (G)(6) of this section applies regarding any 1310
vehicle that is subject to an order of criminal forfeiture under 1311
this division. 1312

(vi) In all cases, the court shall order the offender to 1313
participate with a community addiction services provider 1314
authorized by section 5119.21 of the Revised Code, subject to 1315
division (I) of this section, and shall order the offender to 1316
follow the treatment recommendations of the services provider. 1317
The operator of the services provider shall determine and assess 1318
the degree of the offender's alcohol dependency and shall make 1319
recommendations for treatment. Upon the request of the court, 1320
the services provider shall submit the results of the assessment 1321
to the court, including all treatment recommendations and 1322
clinical diagnoses related to alcohol use. 1323

(vii) In all cases, if the court sentences the offender to 1324
a mandatory term of local incarceration, in addition to the 1325
mandatory term, the court, pursuant to section 2929.17 of the 1326
Revised Code, may impose a term of house arrest with electronic 1327
monitoring. The term shall not commence until after the offender 1328
has served the mandatory term of local incarceration. 1329

(e) An offender who previously has been convicted of or 1330
pleaded guilty to a violation of division (A) of this section 1331
that was a felony, regardless of when the violation and the 1332
conviction or guilty plea occurred, is guilty of a felony of the 1333
third degree. The court shall sentence the offender to all of 1334
the following: 1335

(i) If the offender is being sentenced for a violation of 1336
division (A) (1) (a), (b), (c), (d), (e), or (j) of this section, 1337
a mandatory prison term of one, two, three, four, or five years 1338
as required by and in accordance with division (G) (2) of section 1339
2929.13 of the Revised Code if the offender also is convicted of 1340
or also pleads guilty to a specification of the type described 1341
in section 2941.1413 of the Revised Code or a mandatory prison 1342
term of sixty consecutive days in accordance with division (G) 1343
(2) of section 2929.13 of the Revised Code if the offender is 1344
not convicted of and does not plead guilty to a specification of 1345
that type. The court may impose a prison term in addition to the 1346
mandatory prison term. The cumulative total of a sixty-day 1347
mandatory prison term and the additional prison term for the 1348
offense shall not exceed five years. In addition to the 1349
mandatory prison term or mandatory prison term and additional 1350
prison term the court imposes, the court also may sentence the 1351
offender to a community control sanction for the offense, but 1352
the offender shall serve all of the prison terms so imposed 1353
prior to serving the community control sanction. 1354

(ii) If the sentence is being imposed for a violation of
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this
section, a mandatory prison term of one, two, three, four, or
five years as required by and in accordance with division (G)(2)
of section 2929.13 of the Revised Code if the offender also is
convicted of or also pleads guilty to a specification of the
type described in section 2941.1413 of the Revised Code or a
mandatory prison term of one hundred twenty consecutive days in
accordance with division (G)(2) of section 2929.13 of the
Revised Code if the offender is not convicted of and does not
plead guilty to a specification of that type. The court may
impose a prison term in addition to the mandatory prison term.
The cumulative total of a one hundred twenty-day mandatory
prison term and the additional prison term for the offense shall
not exceed five years. In addition to the mandatory prison term
or mandatory prison term and additional prison term the court
imposes, the court also may sentence the offender to a community
control sanction for the offense, but the offender shall serve
all of the prison terms so imposed prior to serving the
community control sanction.

(iii) In all cases, notwithstanding section 2929.18 of the
Revised Code, a fine of not less than one thousand five hundred
forty nor more than ten thousand five hundred dollars;

(iv) In all cases, a class two license suspension of the
offender's driver's license, commercial driver's license,
temporary instruction permit, probationary license, or
nonresident operating privilege from the range specified in
division (A)(2) of section 4510.02 of the Revised Code. The
court may grant limited driving privileges relative to the
suspension under sections 4510.021 and 4510.13 of the Revised
Code.

(v) In all cases, if the vehicle is registered in the
offender's name, criminal forfeiture of the vehicle involved in
the offense in accordance with section 4503.234 of the Revised
Code. Division (G) (6) of this section applies regarding any
vehicle that is subject to an order of criminal forfeiture under
this division.

(vi) In all cases, the court shall order the offender to
participate with a community addiction services provider
authorized by section 5119.21 of the Revised Code, subject to
division (I) of this section, and shall order the offender to
follow the treatment recommendations of the services provider.
The operator of the services provider shall determine and assess
the degree of the offender's alcohol dependency and shall make
recommendations for treatment. Upon the request of the court,
the services provider shall submit the results of the assessment
to the court, including all treatment recommendations and
clinical diagnoses related to alcohol use.

(2) An offender who is convicted of or pleads guilty to a
violation of division (A) of this section and who subsequently
seeks reinstatement of the driver's or occupational driver's
license or permit or nonresident operating privilege suspended
under this section as a result of the conviction or guilty plea
shall pay a reinstatement fee as provided in division (F) (2) of
section 4511.191 of the Revised Code.

(3) If an offender is sentenced to a jail term under
division (G) (1) (b) (i) or (ii) or (G) (1) (c) (i) or (ii) of this
section and if, within sixty days of sentencing of the offender,
the court issues a written finding on the record that, due to
the unavailability of space at the jail where the offender is
required to serve the term, the offender will not be able to

begin serving that term within the sixty-day period following 1416
the date of sentencing, the court may impose an alternative 1417
sentence under this division that includes a term of house 1418
arrest with electronic monitoring, with continuous alcohol 1419
monitoring, or with both electronic monitoring and continuous 1420
alcohol monitoring. 1421

As an alternative to a mandatory jail term of ten 1422
consecutive days required by division (G)(1)(b)(i) of this 1423
section, the court, under this division, may sentence the 1424
offender to five consecutive days in jail and not less than 1425
eighteen consecutive days of house arrest with electronic 1426
monitoring, with continuous alcohol monitoring, or with both 1427
electronic monitoring and continuous alcohol monitoring. The 1428
cumulative total of the five consecutive days in jail and the 1429
period of house arrest with electronic monitoring, continuous 1430
alcohol monitoring, or both types of monitoring shall not exceed 1431
six months. The five consecutive days in jail do not have to be 1432
served prior to or consecutively to the period of house arrest. 1433

As an alternative to the mandatory jail term of twenty 1434
consecutive days required by division (G)(1)(b)(ii) of this 1435
section, the court, under this division, may sentence the 1436
offender to ten consecutive days in jail and not less than 1437
thirty-six consecutive days of house arrest with electronic 1438
monitoring, with continuous alcohol monitoring, or with both 1439
electronic monitoring and continuous alcohol monitoring. The 1440
cumulative total of the ten consecutive days in jail and the 1441
period of house arrest with electronic monitoring, continuous 1442
alcohol monitoring, or both types of monitoring shall not exceed 1443
six months. The ten consecutive days in jail do not have to be 1444
served prior to or consecutively to the period of house arrest. 1445

As an alternative to a mandatory jail term of thirty 1446
consecutive days required by division (G)(1)(c)(i) of this 1447
section, the court, under this division, may sentence the 1448
offender to fifteen consecutive days in jail and not less than 1449
fifty-five consecutive days of house arrest with electronic 1450
monitoring, with continuous alcohol monitoring, or with both 1451
electronic monitoring and continuous alcohol monitoring. The 1452
cumulative total of the fifteen consecutive days in jail and the 1453
period of house arrest with electronic monitoring, continuous 1454
alcohol monitoring, or both types of monitoring shall not exceed 1455
one year. The fifteen consecutive days in jail do not have to be 1456
served prior to or consecutively to the period of house arrest. 1457

As an alternative to the mandatory jail term of sixty 1458
consecutive days required by division (G)(1)(c)(ii) of this 1459
section, the court, under this division, may sentence the 1460
offender to thirty consecutive days in jail and not less than 1461
one hundred ten consecutive days of house arrest with electronic 1462
monitoring, with continuous alcohol monitoring, or with both 1463
electronic monitoring and continuous alcohol monitoring. The 1464
cumulative total of the thirty consecutive days in jail and the 1465
period of house arrest with electronic monitoring, continuous 1466
alcohol monitoring, or both types of monitoring shall not exceed 1467
one year. The thirty consecutive days in jail do not have to be 1468
served prior to or consecutively to the period of house arrest. 1469

(4) If an offender's driver's or occupational driver's 1470
license or permit or nonresident operating privilege is 1471
suspended under division (G) of this section and if section 1472
4510.13 of the Revised Code permits the court to grant limited 1473
driving privileges, the court may grant the limited driving 1474
privileges in accordance with that section. If division (A)(7) 1475
of that section requires that the court impose as a condition of 1476

the privileges that the offender must display on the vehicle 1477
that is driven subject to the privileges restricted license 1478
plates that are issued under section 4503.231 of the Revised 1479
Code, except as provided in division (B) of that section, the 1480
court shall impose that condition as one of the conditions of 1481
the limited driving privileges granted to the offender, except 1482
as provided in division (B) of section 4503.231 of the Revised 1483
Code. 1484

(5) Fines imposed under this section for a violation of 1485
division (A) of this section shall be distributed as follows: 1486

(a) Twenty-five dollars of the fine imposed under division 1487
(G) (1) (a) (iii), thirty-five dollars of the fine imposed under 1488
division (G) (1) (b) (iii), one hundred twenty-three dollars of the 1489
fine imposed under division (G) (1) (c) (iii), and two hundred ten 1490
dollars of the fine imposed under division (G) (1) (d) (iii) or (e) 1491
(iii) of this section shall be paid to an enforcement and 1492
education fund established by the legislative authority of the 1493
law enforcement agency in this state that primarily was 1494
responsible for the arrest of the offender, as determined by the 1495
court that imposes the fine. The agency shall use this share to 1496
pay only those costs it incurs in enforcing this section or a 1497
municipal OVI ordinance and in informing the public of the laws 1498
governing the operation of a vehicle while under the influence 1499
of alcohol, the dangers of the operation of a vehicle under the 1500
influence of alcohol, and other information relating to the 1501
operation of a vehicle under the influence of alcohol and the 1502
consumption of alcoholic beverages. 1503

(b) Fifty dollars of the fine imposed under division (G) 1504
(1) (a) (iii) of this section shall be paid to the political 1505
subdivision that pays the cost of housing the offender during 1506

the offender's term of incarceration. If the offender is being 1507
sentenced for a violation of division (A) (1) (a), (b), (c), (d), 1508
(e), or (j) of this section and was confined as a result of the 1509
offense prior to being sentenced for the offense but is not 1510
sentenced to a term of incarceration, the fifty dollars shall be 1511
paid to the political subdivision that paid the cost of housing 1512
the offender during that period of confinement. The political 1513
subdivision shall use the share under this division to pay or 1514
reimburse incarceration or treatment costs it incurs in housing 1515
or providing drug and alcohol treatment to persons who violate 1516
this section or a municipal OVI ordinance, costs of any 1517
immobilizing or disabling device used on the offender's vehicle, 1518
and costs of electronic house arrest equipment needed for 1519
persons who violate this section. 1520

(c) Twenty-five dollars of the fine imposed under division 1521
(G) (1) (a) (iii) and fifty dollars of the fine imposed under 1522
division (G) (1) (b) (iii) of this section shall be deposited into 1523
the county or municipal indigent drivers' alcohol treatment fund 1524
under the control of that court, as created by the county or 1525
municipal corporation under division (H) of section 4511.191 of 1526
the Revised Code. 1527

(d) One hundred fifteen dollars of the fine imposed under 1528
division (G) (1) (b) (iii), two hundred seventy-seven dollars of 1529
the fine imposed under division (G) (1) (c) (iii), and four hundred 1530
forty dollars of the fine imposed under division (G) (1) (d) (iii) 1531
or (e) (iii) of this section shall be paid to the political 1532
subdivision that pays the cost of housing the offender during 1533
the offender's term of incarceration. The political subdivision 1534
shall use this share to pay or reimburse incarceration or 1535
treatment costs it incurs in housing or providing drug and 1536
alcohol treatment to persons who violate this section or a 1537

municipal OVI ordinance, costs for any immobilizing or disabling 1538
device used on the offender's vehicle, and costs of electronic 1539
house arrest equipment needed for persons who violate this 1540
section. 1541

(e) One hundred twenty-five dollars of the fine imposed 1542
under divisions (G) (1) (a) (iii), (G) (1) (b) (iii), (G) (1) (c) (iii), 1543
(G) (1) (d) (iii), and (G) (1) (e) (iii) of this section shall be 1544
deposited into the special projects fund of the court in which 1545
the offender was convicted and that is established under 1546
division (E) (1) of section 2303.201, division (B) (1) of section 1547
1901.26, or division (B) (1) of section 1907.24 of the Revised 1548
Code, to be used exclusively to cover the cost of immobilizing 1549
or disabling devices, including certified ignition interlock 1550
devices, and remote alcohol monitoring devices for indigent 1551
offenders who are required by a judge to use either of these 1552
devices. If the court in which the offender was convicted does 1553
not have a special projects fund that is established under 1554
division (E) (1) of section 2303.201, division (B) (1) of section 1555
1901.26, or division (B) (1) of section 1907.24 of the Revised 1556
Code, the one hundred twenty-five dollars shall be deposited 1557
into the indigent drivers interlock and alcohol monitoring fund 1558
under division (I) of section 4511.191 of the Revised Code. 1559

(f) Seventy-five dollars of the fine imposed under 1560
division (G) (1) (a) (iii), one hundred twenty-five dollars of the 1561
fine imposed under division (G) (1) (b) (iii), two hundred fifty 1562
dollars of the fine imposed under division (G) (1) (c) (iii), and 1563
five hundred dollars of the fine imposed under division (G) (1) 1564
(d) (iii) or (e) (iii) of this section shall be transmitted to the 1565
treasurer of state for deposit into the indigent defense support 1566
fund established under section 120.08 of the Revised Code. 1567

(g) One hundred fifteen dollars shall be credited to the 1568
statewide treatment and prevention fund created by section 1569
4301.30 of the Revised Code. Money credited to the fund under 1570
this section shall be used for purposes identified under section 1571
5119.22 of the Revised Code. 1572

(h) The balance of the fine imposed under division (G) (1) 1573
(a) (iii), (b) (iii), (c) (iii), (d) (iii), or (e) (iii) of this 1574
section shall be disbursed as otherwise provided by law. 1575

(6) If title to a motor vehicle that is subject to an 1576
order of criminal forfeiture under division (G) (1) (c), (d), or 1577
(e) of this section is assigned or transferred and division (B) 1578
(2) or (3) of section 4503.234 of the Revised Code applies, in 1579
addition to or independent of any other penalty established by 1580
law, the court may fine the offender the value of the vehicle as 1581
determined by publications of the national automobile dealers 1582
association. The proceeds of any fine so imposed shall be 1583
distributed in accordance with division (C) (2) of that section. 1584

(7) In all cases in which an offender is sentenced under 1585
division (G) of this section, the offender shall provide the 1586
court with proof of financial responsibility as defined in 1587
section 4509.01 of the Revised Code. If the offender fails to 1588
provide that proof of financial responsibility, the court, in 1589
addition to any other penalties provided by law, may order 1590
restitution pursuant to section 2929.18 or 2929.28 of the 1591
Revised Code in an amount not exceeding five thousand dollars 1592
for any economic loss arising from an accident or collision that 1593
was the direct and proximate result of the offender's operation 1594
of the vehicle before, during, or after committing the offense 1595
for which the offender is sentenced under division (G) of this 1596
section. 1597

(8) A court may order an offender to reimburse a law enforcement agency for any costs incurred by the agency with respect to a chemical test or tests administered to the offender if all of the following apply:

(a) The offender is convicted of or pleads guilty to a violation of division (A) of this section.

(b) The test or tests were of the offender's whole blood, blood serum or plasma, oral fluid, or urine.

(c) The test or tests indicated that the offender had one of the following at the time of the offense:

(i) A prohibited concentration of a controlled substance or a metabolite of a controlled substance in the offender's whole blood, blood serum or plasma, or urine;

(ii) A drug of abuse or a metabolite of a drug of abuse in the offender's oral fluid.

(9) A court may warn any person who is convicted of or who pleads guilty to a violation of division (A) of this section or an equivalent offense that a subsequent violation of this section or an equivalent offense that results in the death of another or the unlawful termination of another's pregnancy may result in the person being guilty of aggravated vehicular homicide under section 2903.06 of the Revised Code. The court may warn the person of the applicable penalties for that violation under sections 2903.06 and 2929.142 of the Revised Code.

(10) As used in division (G) of this section, "electronic monitoring," "mandatory prison term," and "mandatory term of local incarceration" have the same meanings as in section 2929.01 of the Revised Code.

(H) Whoever violates division (B) of this section is 1627
guilty of operating a vehicle after underage alcohol consumption 1628
and shall be punished as follows: 1629

(1) Except as otherwise provided in division (H) (2) of 1630
this section, the offender is guilty of a misdemeanor of the 1631
fourth degree. In addition to any other sanction imposed for the 1632
offense, the court shall impose a class six suspension of the 1633
offender's driver's license, commercial driver's license, 1634
temporary instruction permit, probationary license, or 1635
nonresident operating privilege from the range specified in 1636
division (A) (6) of section 4510.02 of the Revised Code. The 1637
court may grant limited driving privileges relative to the 1638
suspension under sections 4510.021 and 4510.13 of the Revised 1639
Code. The court may grant unlimited driving privileges with an 1640
ignition interlock device relative to the suspension and may 1641
reduce the period of suspension as authorized under section 1642
4510.022 of the Revised Code. If the court grants unlimited 1643
driving privileges under section 4510.022 of the Revised Code, 1644
the court shall suspend any jail term imposed under division (H) 1645
(1) of this section as required under that section. 1646

(2) If, within one year of the offense, the offender 1647
previously has been convicted of or pleaded guilty to one or 1648
more violations of division (A) of this section or other 1649
equivalent offenses, the offender is guilty of a misdemeanor of 1650
the third degree. In addition to any other sanction imposed for 1651
the offense, the court shall impose a class four suspension of 1652
the offender's driver's license, commercial driver's license, 1653
temporary instruction permit, probationary license, or 1654
nonresident operating privilege from the range specified in 1655
division (A) (4) of section 4510.02 of the Revised Code. The 1656
court may grant limited driving privileges relative to the 1657

suspension under sections 4510.021 and 4510.13 of the Revised 1658
Code. 1659

(3) The offender shall provide the court with proof of 1660
financial responsibility as defined in section 4509.01 of the 1661
Revised Code. If the offender fails to provide that proof of 1662
financial responsibility, then, in addition to any other 1663
penalties provided by law, the court may order restitution 1664
pursuant to section 2929.28 of the Revised Code in an amount not 1665
exceeding five thousand dollars for any economic loss arising 1666
from an accident or collision that was the direct and proximate 1667
result of the offender's operation of the vehicle before, 1668
during, or after committing the violation of division (B) of 1669
this section. 1670

(I) (1) No court shall sentence an offender to an alcohol 1671
treatment program under this section unless the treatment 1672
program complies with the minimum standards for alcohol 1673
treatment programs adopted under Chapter 5119. of the Revised 1674
Code by the director of mental health and addiction services. 1675

(2) An offender who stays in a drivers' intervention 1676
program or in an alcohol treatment program under an order issued 1677
under this section shall pay the cost of the stay in the 1678
program. However, if the court determines that an offender who 1679
stays in an alcohol treatment program under an order issued 1680
under this section is unable to pay the cost of the stay in the 1681
program, the court may order that the cost be paid from the 1682
court's indigent drivers' alcohol treatment fund. 1683

(J) If a person whose driver's or commercial driver's 1684
license or permit or nonresident operating privilege is 1685
suspended under this section files an appeal regarding any 1686
aspect of the person's trial or sentence, the appeal itself does 1687

not stay the operation of the suspension. 1688

(K) Division (A)(1)(j) of this section does not apply to a 1689
person who operates a vehicle, streetcar, or trackless trolley 1690
while the person has a concentration of a listed controlled 1691
substance or a listed metabolite of a controlled substance in 1692
the person's whole blood, blood serum or plasma, or urine that 1693
equals or exceeds the amount specified in that division, if both 1694
of the following apply: 1695

(1) The person obtained the controlled substance pursuant 1696
to a prescription issued by a licensed health professional 1697
authorized to prescribe drugs. 1698

(2) The person injected, ingested, or inhaled the 1699
controlled substance in accordance with the health 1700
professional's directions. 1701

(L) The prohibited concentrations of a controlled 1702
substance or a metabolite of a controlled substance listed in 1703
division (A)(1)(j) of this section also apply in a prosecution 1704
of a violation of division (D) of section 2923.16 of the Revised 1705
Code in the same manner as if the offender is being prosecuted 1706
for a prohibited concentration of alcohol. 1707

(M) All terms defined in section 4510.01 of the Revised 1708
Code apply to this section. If the meaning of a term defined in 1709
section 4510.01 of the Revised Code conflicts with the meaning 1710
of the same term as defined in section 4501.01 or 4511.01 of the 1711
Revised Code, the term as defined in section 4510.01 of the 1712
Revised Code applies to this section. 1713

(N) (1) The Ohio Traffic Rules in effect on January 1, 1714
2004, as adopted by the supreme court under authority of section 1715
2937.46 of the Revised Code, do not apply to felony violations 1716

of this section. Subject to division (N) (2) of this section, the 1717
Rules of Criminal Procedure apply to felony violations of this 1718
section. 1719

(2) If, on or after January 1, 2004, the supreme court 1720
modifies the Ohio Traffic Rules to provide procedures to govern 1721
felony violations of this section, the modified rules shall 1722
apply to felony violations of this section. 1723

Section 2. That existing sections 1547.11, 3701.143, 1724
4511.181, and 4511.19 of the Revised Code are hereby repealed. 1725

Section 3. The General Assembly, applying the principle 1726
stated in division (B) of section 1.52 of the Revised Code that 1727
amendments are to be harmonized and reconciled if reasonably 1728
capable of simultaneous operation, finds that the following 1729
sections, presented in this act as composites of the sections as 1730
amended by the acts indicated, are the resulting versions of the 1731
sections in effect prior to the effective date of the sections 1732
as presented in this act: 1733

Section 3701.143 of the Revised Code as amended by both 1734
H.B. 37 and S.B. 100 of the 135th General Assembly. 1735

Section 4511.19 of the Revised Code as amended by both 1736
H.B. 37 and S.B. 100 of the 135th General Assembly. 1737