

As Introduced

**135th General Assembly
Regular Session
2023-2024**

S. B. No. 26

Senator Manning

A BILL

To amend sections 1547.11, 3701.143, 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.

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

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

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:

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

(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.

(3) The person has a concentration of ninety-six-

thousandths of one per cent or more by weight per unit volume of 19
alcohol in the person's blood serum or plasma. 20

(4) The person has a concentration of eleven-hundredths of 21
one gram or more by weight of alcohol per one hundred 22
milliliters of the person's urine. 23

(5) The person has a concentration of eight-hundredths of 24
one gram or more by weight of alcohol per two hundred ten liters 25
of the person's breath. 26

(6) Except as provided in division ~~(H)~~(I) of this 27
section, the person has a concentration of any of the following 28
controlled substances or metabolites of a controlled substance 29
in the person's whole blood, blood serum or plasma, or urine 30
that equals or exceeds any of the following: 31

(a) The person has a concentration of amphetamine in the 32
person's urine of at least five hundred nanograms of amphetamine 33
per milliliter of the person's urine or has a concentration of 34
amphetamine in the person's whole blood or blood serum or plasma 35
of at least one hundred nanograms of amphetamine per milliliter 36
of the person's whole blood or blood serum or plasma. 37

(b) The person has a concentration of cocaine in the 38
person's urine of at least one hundred fifty nanograms of 39
cocaine per milliliter of the person's urine or has a 40
concentration of cocaine in the person's whole blood or blood 41
serum or plasma of at least fifty nanograms of cocaine per 42
milliliter of the person's whole blood or blood serum or plasma. 43

(c) The person has a concentration of cocaine metabolite 44
in the person's urine of at least one hundred fifty nanograms of 45
cocaine metabolite per milliliter of the person's urine or has a 46
concentration of cocaine metabolite in the person's whole blood 47

or blood serum or plasma of at least fifty nanograms of cocaine 48
metabolite per milliliter of the person's whole blood or blood 49
serum or plasma. 50

(d) The person has a concentration of heroin in the 51
person's urine of at least two thousand nanograms of heroin per 52
milliliter of the person's urine or has a concentration of 53
heroin in the person's whole blood or blood serum or plasma of 54
at least fifty nanograms of heroin per milliliter of the 55
person's whole blood or blood serum or plasma. 56

(e) The person has a concentration of heroin metabolite 57
(6-monoacetyl morphine) in the person's urine of at least ten 58
nanograms of heroin metabolite (6-monoacetyl morphine) per 59
milliliter of the person's urine or has a concentration of 60
heroin metabolite (6-monoacetyl morphine) in the person's whole 61
blood or blood serum or plasma of at least ten nanograms of 62
heroin metabolite (6-monoacetyl morphine) per milliliter of the 63
person's whole blood or blood serum or plasma. 64

(f) The person has a concentration of L.S.D. in the 65
person's urine of at least twenty-five nanograms of L.S.D. per 66
milliliter of the person's urine or has a concentration of 67
L.S.D. in the person's whole blood or blood serum or plasma of 68
at least ten nanograms of L.S.D. per milliliter of the person's 69
whole blood or blood serum or plasma. 70

~~(g) The person has a concentration of marihuana in the 71
person's urine of at least ten nanograms of marihuana per 72
milliliter of the person's urine or has a concentration of 73
marihuana in the person's whole blood or blood serum or plasma 74
of at least two nanograms of marihuana per milliliter of the 75
person's whole blood or blood serum or plasma. 76~~

~~(h)~~—The state board of pharmacy has adopted a rule 77
pursuant to section 4729.041 of the Revised Code that specifies 78
the amount of salvia divinorum and the amount of salvinorin A 79
that constitute concentrations of salvia divinorum and 80
salvinorin A in a person's urine, in a person's whole blood, or 81
in a person's blood serum or plasma at or above which the person 82
is impaired for purposes of operating or being in physical 83
control of any vessel underway or manipulating any water skis, 84
aquaplane, or similar device on the waters of this state, the 85
rule is in effect, and the person has a concentration of salvia 86
divinorum or salvinorin A of at least that amount so specified 87
by rule in the person's urine, in the person's whole blood, or 88
in the person's blood serum or plasma. 89

~~(i) Either of the following applies:~~ 90

~~(i) The person is under the influence of alcohol, a drug 91
of abuse, or a combination of them, and, as measured by gas 92
chromatography mass spectrometry, the person has a concentration 93
of marihuana metabolite in the person's urine of at least 94
fifteen nanograms of marihuana metabolite per milliliter of the 95
person's urine or has a concentration of marihuana metabolite in 96
the person's whole blood or blood serum or plasma of at least 97
five nanograms of marihuana metabolite per milliliter of the 98
person's whole blood or blood serum or plasma. 99~~

~~(ii) As measured by gas chromatography mass spectrometry, 100
the person has a concentration of marihuana metabolite in the 101
person's urine of at least thirty five nanograms of marihuana 102
metabolite per milliliter of the person's urine or has a 103
concentration of marihuana metabolite in the person's whole 104
blood or blood serum or plasma of at least fifty nanograms of 105
marihuana metabolite per milliliter of the person's whole blood 106~~

~~or blood serum or plasma.~~ 107

~~(j)~~ (h) The person has a concentration of methamphetamine 108
in the person's urine of at least five hundred nanograms of 109
methamphetamine per milliliter of the person's urine or has a 110
concentration of methamphetamine in the person's whole blood or 111
blood serum or plasma of at least one hundred nanograms of 112
methamphetamine per milliliter of the person's whole blood or 113
blood serum or plasma. 114

~~(k)~~ (i) The person has a concentration of phencyclidine in 115
the person's urine of at least twenty-five nanograms of 116
phencyclidine per milliliter of the person's urine or has a 117
concentration of phencyclidine in the person's whole blood or 118
blood serum or plasma of at least ten nanograms of phencyclidine 119
per milliliter of the person's whole blood or blood serum or 120
plasma. 121

(B) No person under twenty-one years of age shall operate 122
or be in physical control of any vessel underway or shall 123
manipulate any water skis, aquaplane, or similar device on the 124
waters in this state if, at the time of the operation, control, 125
or manipulation, any of the following applies: 126

(1) The person has a concentration of at least two- 127
hundredths of one per cent, but less than eight-hundredths of 128
one per cent by weight per unit volume of alcohol in the 129
person's whole blood. 130

(2) The person has a concentration of at least three- 131
hundredths of one per cent but less than ninety-six-thousandths 132
of one per cent by weight per unit volume of alcohol in the 133
person's blood serum or plasma. 134

(3) The person has a concentration of at least twenty- 135

eight one-thousandths of one gram, but less than eleven- 136
hundredths of one gram by weight of alcohol per one hundred 137
milliliters of the person's urine. 138

(4) The person has a concentration of at least two- 139
hundredths of one gram, but less than eight-hundredths of one 140
gram by weight of alcohol per two hundred ten liters of the 141
person's breath. 142

(C) In any proceeding arising out of one incident, a 143
person may be charged with a violation of division (A) (1) and a 144
violation of division (B) (1), (2), (3), or (4) of this section, 145
but the person shall not be convicted of more than one violation 146
of those divisions. 147

(D) (1) (a) In any criminal prosecution or juvenile court 148
proceeding for a violation of division (A) or (B) of this 149
section or for an equivalent offense that is watercraft-related, 150
the result of any test of any blood or urine withdrawn and 151
analyzed at any health care provider, as defined in section 152
2317.02 of the Revised Code, may be admitted with expert 153
testimony to be considered with any other relevant and competent 154
evidence in determining the guilt or innocence of the defendant. 155

(b) In any criminal prosecution or juvenile court 156
proceeding for a violation of division (A) or (B) of this 157
section or for an equivalent offense that is watercraft-related, 158
the court may admit evidence on the concentration of alcohol, 159
drugs of abuse, controlled substances, metabolites of a 160
controlled substance, or a combination of them in the 161
defendant's or child's whole blood, blood serum or plasma, 162
urine, or breath at the time of the alleged violation as shown 163
by chemical analysis of the substance withdrawn, or specimen 164
taken within three hours of the time of the alleged violation. 165

The three-hour time limit specified in this division regarding 166
the admission of evidence does not extend or affect the two-hour 167
time limit specified in division (C) of section 1547.111 of the 168
Revised Code as the maximum period of time during which a person 169
may consent to a chemical test or tests as described in that 170
section. The court may admit evidence on the concentration of 171
alcohol, drugs of abuse, or a combination of them as described 172
in this division when a person submits to a blood, breath, 173
urine, or other bodily substance test at the request of a law 174
enforcement officer under section 1547.111 of the Revised Code 175
or a blood or urine sample is obtained pursuant to a search 176
warrant. Only a physician, a registered nurse, an emergency 177
medical technician-intermediate, an emergency medical 178
technician-paramedic, or a qualified technician, chemist, or 179
phlebotomist shall withdraw blood for the purpose of determining 180
the alcohol, drug, controlled substance, metabolite of a 181
controlled substance, or combination content of the whole blood, 182
blood serum, or blood plasma. This limitation does not apply to 183
the taking of breath or urine specimens. A person authorized to 184
withdraw blood under this division may refuse to withdraw blood 185
under this division if, in that person's opinion, the physical 186
welfare of the defendant or child would be endangered by 187
withdrawing blood. 188

The whole blood, blood serum or plasma, urine, or breath 189
withdrawn under division (D) (1) (b) of this section shall be 190
analyzed in accordance with methods approved by the director of 191
health by an individual possessing a valid permit issued by the 192
director pursuant to section 3701.143 of the Revised Code. 193

(c) (i) Any evidence or testimony proposed to be admitted 194
under division (D) (1) (b) of this section is subject to the Rules 195
of Evidence, including Evid. R. 702 regarding expert testimony. 196

(ii) The admissibility of any evidence or testimony under 197
division (D) (1) (b) of this section regarding the concentration 198
of alcohol, a drug of abuse, or a combination of them in a 199
person's whole blood, blood serum or plasma, urine, breath, or 200
other bodily substance does not affect, impair, or limit the 201
admissibility of either of the following that is otherwise 202
admissible under the Rules of Evidence: 203

(I) Any evidence or testimony regarding the analysis of a 204
person's whole blood, blood serum or plasma, urine, breath, or 205
other bodily substance under section 3701.143 of the Revised 206
Code; 207

(II) Any evidence or testimony regarding the method, 208
process, reliability, or equipment used in the process of 209
analyzing a person's whole blood, blood serum or plasma, urine, 210
breath, or other bodily substance under section 3701.143 of the 211
Revised Code. 212

The trier of fact shall give any evidence or testimony 213
admitted by the court under division (D) (1) (c) of this section 214
whatever weight the trier of fact considers to be appropriate. 215

(2) In a criminal prosecution or juvenile court proceeding 216
for a violation of division (A) of this section or for an 217
equivalent offense that is watercraft-related, if there was at 218
the time the bodily substance was taken a concentration of less 219
than the applicable concentration of alcohol specified for a 220
violation of division (A) (2), (3), (4), or (5) of this section 221
or less than the applicable concentration of a listed controlled 222
substance or a listed metabolite of a controlled substance 223
specified for a violation of division (A) (6) of this section, 224
that fact may be considered with other competent evidence in 225
determining the guilt or innocence of the defendant or in making 226

an adjudication for the child. This division does not limit or 227
affect a criminal prosecution or juvenile court proceeding for a 228
violation of division (B) of this section or for a violation of 229
a prohibition that is substantially equivalent to that division. 230

(3) Upon the request of the person who was tested, the 231
results of the chemical test shall be made available to the 232
person or the person's attorney immediately upon completion of 233
the test analysis. 234

If the chemical test was administered pursuant to division 235
(D) (1) (b) of this section, the person tested may have a 236
physician, a registered nurse, or a qualified technician, 237
chemist, or phlebotomist of the person's own choosing administer 238
a chemical test or tests in addition to any administered at the 239
direction of a law enforcement officer, and shall be so advised. 240
The failure or inability to obtain an additional test by a 241
person shall not preclude the admission of evidence relating to 242
the test or tests taken at the direction of a law enforcement 243
officer. 244

(E) (1) In any criminal prosecution or juvenile court 245
proceeding for a violation of division (A) or (B) of this 246
section, of a municipal ordinance relating to operating or being 247
in physical control of any vessel underway or to manipulating 248
any water skis, aquaplane, or similar device on the waters of 249
this state while under the influence of alcohol, a drug of 250
abuse, or a combination of them, or of a municipal ordinance 251
relating to operating or being in physical control of any vessel 252
underway or to manipulating any water skis, aquaplane, or 253
similar device on the waters of this state with a prohibited 254
concentration of alcohol, a controlled substance, or a 255
metabolite of a controlled substance in the whole blood, blood 256

serum or plasma, breath, or urine, if a law enforcement officer 257
has administered a field sobriety test to the operator or person 258
found to be in physical control of the vessel underway involved 259
in the violation or the person manipulating the water skis, 260
aquaplane, or similar device involved in the violation and if it 261
is shown by clear and convincing evidence that the officer 262
administered the test in substantial compliance with the testing 263
standards for reliable, credible, and generally accepted field 264
sobriety tests for vehicles that were in effect at the time the 265
tests were administered, including, but not limited to, any 266
testing standards then in effect that have been set by the 267
national highway traffic safety administration, that by their 268
nature are not clearly inapplicable regarding the operation or 269
physical control of vessels underway or the manipulation of 270
water skis, aquaplanes, or similar devices, all of the following 271
apply: 272

(a) The officer may testify concerning the results of the 273
field sobriety test so administered. 274

(b) The prosecution may introduce the results of the field 275
sobriety test so administered as evidence in any proceedings in 276
the criminal prosecution or juvenile court proceeding. 277

(c) If testimony is presented or evidence is introduced 278
under division (E) (1) (a) or (b) of this section and if the 279
testimony or evidence is admissible under the Rules of Evidence, 280
the court shall admit the testimony or evidence, and the trier 281
of fact shall give it whatever weight the trier of fact 282
considers to be appropriate. 283

(2) Division (E) (1) of this section does not limit or 284
preclude a court, in its determination of whether the arrest of 285
a person was supported by probable cause or its determination of 286

any other matter in a criminal prosecution or juvenile court proceeding of a type described in that division, from considering evidence or testimony that is not otherwise disallowed by division (E) (1) of this section.

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

(a) The person has a concentration of at least twenty-five nanograms of delta-9-tetrahydrocannabinol per milliliter of the person's urine.

(b) The person has a concentration of at least five nanograms of delta-9-tetrahydrocannabinol per milliliter of the person's whole blood or blood serum or plasma.

(2) (a) If the court admits any evidence or testimony submitted by the prosecution under division (D) (1) (b) of this section that demonstrates that a person had a concentration of delta-9-tetrahydrocannabinol that exceeds one of the levels specified in division (F) (1) of this section, the trier of fact without expert testimony, may infer that the person was under the influence of marihuana in violation of division (A) (1) of this section.

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

(3) In determining whether a person was under the influence of marihuana, the trier of fact shall consider all relevant and competent evidence, including the inference, and give the evidence whatever weight the trier of fact considers to

be appropriate. 316

(G) (1) Subject to division ~~(F) (3)~~ (G) (3) of this section, 317
in any criminal prosecution or juvenile court proceeding for a 318
violation of division (A) or (B) of this section or for an 319
equivalent offense that is substantially equivalent to either of 320
those divisions, the court shall admit as prima-facie evidence a 321
laboratory report from any laboratory personnel issued a permit 322
by the department of health authorizing an analysis as described 323
in this division that contains an analysis of the whole blood, 324
blood serum or plasma, breath, urine, or other bodily substance 325
tested and that contains all of the information specified in 326
this division. The laboratory report shall contain all of the 327
following: 328

(a) The signature, under oath, of any person who performed 329
the analysis; 330

(b) Any findings as to the identity and quantity of 331
alcohol, a drug of abuse, a controlled substance, a metabolite 332
of a controlled substance, or a combination of them that was 333
found; 334

(c) A copy of a notarized statement by the laboratory 335
director or a designee of the director that contains the name of 336
each certified analyst or test performer involved with the 337
report, the analyst's or test performer's employment 338
relationship with the laboratory that issued the report, and a 339
notation that performing an analysis of the type involved is 340
part of the analyst's or test performer's regular duties; 341

(d) An outline of the analyst's or test performer's 342
education, training, and experience in performing the type of 343
analysis involved and a certification that the laboratory 344

satisfies appropriate quality control standards in general and, 345
in this particular analysis, under rules of the department of 346
health. 347

(2) Notwithstanding any other provision of law regarding 348
the admission of evidence, a report of the type described in 349
division ~~(F)(1)~~(G)(1) of this section is not admissible against 350
the defendant or child to whom it pertains in any proceeding, 351
other than a preliminary hearing or a grand jury proceeding, 352
unless the prosecutor has served a copy of the report on the 353
defendant's or child's attorney or, if the defendant or child 354
has no attorney, on the defendant or child. 355

(3) A report of the type described in division ~~(F)(1)~~(G) 356
(1) of this section shall not be prima-facie evidence of the 357
contents, identity, or amount of any substance if, within seven 358
days after the defendant or child to whom the report pertains or 359
the defendant's or child's attorney receives a copy of the 360
report, the defendant or child or the defendant's or child's 361
attorney demands the testimony of the person who signed the 362
report. The judge in the case may extend the seven-day time 363
limit in the interest of justice. 364

~~(G)~~(H) Except as otherwise provided in this division, any 365
physician, registered nurse, emergency medical technician- 366
intermediate, emergency medical technician-paramedic, or 367
qualified technician, chemist, or phlebotomist who withdraws 368
blood from a person pursuant to this section or section 1547.111 369
of the Revised Code, and a hospital, first-aid station, or 370
clinic at which blood is withdrawn from a person pursuant to 371
this section or section 1547.111 of the Revised Code, is immune 372
from criminal and civil liability based upon a claim of assault 373
and battery or any other claim that is not a claim of 374

malpractice, for any act performed in withdrawing blood from the 375
person. The immunity provided in this division also extends to 376
an emergency medical service organization that employs an 377
emergency medical technician-intermediate, or an emergency 378
medical technician-paramedic who withdraws blood under this 379
section. The immunity provided in this division is not available 380
to a person who withdraws blood if the person engages in willful 381
or wanton misconduct. 382

~~(H)~~ (I) Division (A) (6) of this section does not apply to 383
a person who operates or is in physical control of a vessel 384
underway or manipulates any water skis, aquaplane, or similar 385
device while the person has a concentration of a listed 386
controlled substance or a listed metabolite of a controlled 387
substance in the person's whole blood, blood serum or plasma, or 388
urine that equals or exceeds the amount specified in that 389
division, if both of the following apply: 390

(1) The person obtained the controlled substance pursuant 391
to a prescription issued by a licensed health professional 392
authorized to prescribe drugs. 393

(2) The person injected, ingested, or inhaled the 394
controlled substance in accordance with the health 395
professional's directions. 396

~~(I)~~ (J) As used in this section and section 1547.111 of 397
the Revised Code: 398

(1) "Equivalent offense" has the same meaning as in 399
section 4511.181 of the Revised Code. 400

(2) "National highway traffic safety administration" has 401
the same meaning as in section 4511.19 of the Revised Code. 402

(3) "Operate" means that a vessel is being used on the 403

waters in this state when the vessel is not securely affixed to 404
a dock or to shore or to any permanent structure to which the 405
vessel has the right to affix or that a vessel is not anchored 406
in a designated anchorage area or boat camping area that is 407
established by the United States coast guard, this state, or a 408
political subdivision and in which the vessel has the right to 409
anchor. 410

(4) "Controlled substance" and "marihuana" have the same 411
meanings as in section 3719.01 of the Revised Code. 412

(5) "Cocaine" and "L.S.D." have the same meanings as in 413
section 2925.01 of the Revised Code. 414

(6) "Equivalent offense that is watercraft-related" means 415
an equivalent offense that is one of the following: 416

(a) A violation of division (A) or (B) of this section; 417

(b) A violation of a municipal ordinance prohibiting a 418
person from operating or being in physical control of any vessel 419
underway or from manipulating any water skis, aquaplane, or 420
similar device on the waters of this state while under the 421
influence of alcohol, a drug of abuse, or a combination of them 422
or prohibiting a person from operating or being in physical 423
control of any vessel underway or from manipulating any water 424
skis, aquaplane, or similar device on the waters of this state 425
with a prohibited concentration of alcohol, a controlled 426
substance, or a metabolite of a controlled substance in the 427
whole blood, blood serum or plasma, breath, or urine; 428

(c) A violation of an existing or former municipal 429
ordinance, law of another state, or law of the United States 430
that is substantially equivalent to division (A) or (B) of this 431
section; 432

(d) A violation of a former law of this state that was 433
substantially equivalent to division (A) or (B) of this section. 434

(7) "Emergency medical technician-intermediate" and 435
"emergency medical technician-paramedic" have the same meanings 436
as in section 4765.01 of the Revised Code. 437

Sec. 3701.143. (A) As used in this section, "drug of 438
abuse" has the same meaning as in section 4506.01 of the Revised 439
Code. 440

(B) For purposes of sections 1547.11, 4511.19, and 441
4511.194 of the Revised Code, the director of health shall 442
determine, or cause to be determined, techniques or methods for 443
chemically analyzing a person's whole blood, blood serum or 444
plasma, urine, breath, or other bodily substance in order to 445
ascertain the amount of alcohol, a drug of abuse, controlled 446
substance, metabolite of a controlled substance, or combination 447
of them in the person's whole blood, blood serum or plasma, 448
urine, breath, or other bodily substance. The director shall 449
approve satisfactory techniques or methods, ascertain the 450
qualifications of individuals to conduct such analyses, and 451
issue permits to qualified persons authorizing them to perform 452
such analyses. Such permits shall be subject to termination or 453
revocation at the discretion of the director. 454

~~As used in this section, "drug of abuse" has the same~~ 455
~~meaning as in section 4506.01 of the Revised Code.~~ 456

(C) (1) The authority granted under this section, and any 457
rules adopted pursuant to that authority, does not affect, 458
impair, or limit the admissibility of any evidence regarding 459
either of the following that is otherwise admissible under the 460
Rules of Evidence: 461

(a) Any evidence or testimony regarding the analysis of a person's whole blood, blood serum or plasma, urine, breath, or other bodily substance under this section, division (D) (1) (b) of section 1547.11, or division (D) (1) (b) of section 4511.19 of the Revised Code; 462
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(b) Any evidence or testimony regarding the method, process, reliability, or equipment used in the process of analyzing a person's whole blood, blood serum or plasma, urine, breath, or other bodily substance under this section, division (D) (1) (b) of section 1547.11, or division (D) (1) (b) of section 4511.19 of the Revised Code. 467
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Any evidence or testimony proposed to be admitted under this section, and any evidence or testimony admitted under this section, is subject to division (D) (1) (c) of section 1547.11 or division (D) (1) (c) of section 4511.19 of the Revised Code, as applicable. 473
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Sec. 4511.19. (A) (1) No person shall operate any vehicle, streetcar, or trackless trolley within this state, if, at the time of the operation, any of the following apply: 478
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(a) The person is under the influence of alcohol, a drug of abuse, or a combination of them. 481
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(b) The person has a concentration of eight-hundredths of one per cent or more but less than seventeen-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood. 483
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(c) The person has a concentration of ninety-six-thousandths of one per cent or more but less than two hundred four-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma. 487
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(d) The person has a concentration of eight-hundredths of 491
one gram or more but less than seventeen-hundredths of one gram 492
by weight of alcohol per two hundred ten liters of the person's 493
breath. 494

(e) The person has a concentration of eleven-hundredths of 495
one gram or more but less than two hundred thirty-eight- 496
thousandths of one gram by weight of alcohol per one hundred 497
milliliters of the person's urine. 498

(f) The person has a concentration of seventeen-hundredths 499
of one per cent or more by weight per unit volume of alcohol in 500
the person's whole blood. 501

(g) The person has a concentration of two hundred four- 502
thousandths of one per cent or more by weight per unit volume of 503
alcohol in the person's blood serum or plasma. 504

(h) The person has a concentration of seventeen-hundredths 505
of one gram or more by weight of alcohol per two hundred ten 506
liters of the person's breath. 507

(i) The person has a concentration of two hundred thirty- 508
eight-thousandths of one gram or more by weight of alcohol per 509
one hundred milliliters of the person's urine. 510

(j) Except as provided in division (K) of this section, 511
the person has a concentration of any of the following 512
controlled substances or metabolites of a controlled substance 513
in the person's whole blood, blood serum or plasma, or urine 514
that equals or exceeds any of the following: 515

(i) The person has a concentration of amphetamine in the 516
person's urine of at least five hundred nanograms of amphetamine 517
per milliliter of the person's urine or has a concentration of 518
amphetamine in the person's whole blood or blood serum or plasma 519

of at least one hundred nanograms of amphetamine per milliliter 520
of the person's whole blood or blood serum or plasma. 521

(ii) The person has a concentration of cocaine in the 522
person's urine of at least one hundred fifty nanograms of 523
cocaine per milliliter of the person's urine or has a 524
concentration of cocaine in the person's whole blood or blood 525
serum or plasma of at least fifty nanograms of cocaine per 526
milliliter of the person's whole blood or blood serum or plasma. 527

(iii) The person has a concentration of cocaine metabolite 528
in the person's urine of at least one hundred fifty nanograms of 529
cocaine metabolite per milliliter of the person's urine or has a 530
concentration of cocaine metabolite in the person's whole blood 531
or blood serum or plasma of at least fifty nanograms of cocaine 532
metabolite per milliliter of the person's whole blood or blood 533
serum or plasma. 534

(iv) The person has a concentration of heroin in the 535
person's urine of at least two thousand nanograms of heroin per 536
milliliter of the person's urine or has a concentration of 537
heroin in the person's whole blood or blood serum or plasma of 538
at least fifty nanograms of heroin per milliliter of the 539
person's whole blood or blood serum or plasma. 540

(v) The person has a concentration of heroin metabolite 541
(6-monoacetyl morphine) in the person's urine of at least ten 542
nanograms of heroin metabolite (6-monoacetyl morphine) per 543
milliliter of the person's urine or has a concentration of 544
heroin metabolite (6-monoacetyl morphine) in the person's whole 545
blood or blood serum or plasma of at least ten nanograms of 546
heroin metabolite (6-monoacetyl morphine) per milliliter of the 547
person's whole blood or blood serum or plasma. 548

(vi) The person has a concentration of L.S.D. in the 549
person's urine of at least twenty-five nanograms of L.S.D. per 550
milliliter of the person's urine or a concentration of L.S.D. in 551
the person's whole blood or blood serum or plasma of at least 552
ten nanograms of L.S.D. per milliliter of the person's whole 553
blood or blood serum or plasma. 554

~~(vii) The person has a concentration of marihuana in the 555
person's urine of at least ten nanograms of marihuana per 556
milliliter of the person's urine or has a concentration of 557
marihuana in the person's whole blood or blood serum or plasma 558
of at least two nanograms of marihuana per milliliter of the 559
person's whole blood or blood serum or plasma. 560~~

~~(viii) Either of the following applies: 561~~

~~(I) The person is under the influence of alcohol, a drug 562
of abuse, or a combination of them, and the person has a 563
concentration of marihuana metabolite in the person's urine of 564
at least fifteen nanograms of marihuana metabolite per 565
milliliter of the person's urine or has a concentration of 566
marihuana metabolite in the person's whole blood or blood serum 567
or plasma of at least five nanograms of marihuana metabolite per 568
milliliter of the person's whole blood or blood serum or plasma. 569~~

~~(II) The person has a concentration of marihuana 570
metabolite in the person's urine of at least thirty five 571
nanograms of marihuana metabolite per milliliter of the person's 572
urine or has a concentration of marihuana metabolite in the 573
person's whole blood or blood serum or plasma of at least fifty 574
nanograms of marihuana metabolite per milliliter of the person's 575
whole blood or blood serum or plasma. 576~~

~~(ix) The person has a concentration of methamphetamine in 577~~

the person's urine of at least five hundred nanograms of 578
methamphetamine per milliliter of the person's urine or has a 579
concentration of methamphetamine in the person's whole blood or 580
blood serum or plasma of at least one hundred nanograms of 581
methamphetamine per milliliter of the person's whole blood or 582
blood serum or plasma. 583

~~(*)~~ (viii) The person has a concentration of phencyclidine 584
in the person's urine of at least twenty-five nanograms of 585
phencyclidine per milliliter of the person's urine or has a 586
concentration of phencyclidine in the person's whole blood or 587
blood serum or plasma of at least ten nanograms of phencyclidine 588
per milliliter of the person's whole blood or blood serum or 589
plasma. 590

~~(*)~~ (ix) The state board of pharmacy has adopted a rule 591
pursuant to section 4729.041 of the Revised Code that specifies 592
the amount of salvia divinorum and the amount of salvinorin A 593
that constitute concentrations of salvia divinorum and 594
salvinorin A in a person's urine, in a person's whole blood, or 595
in a person's blood serum or plasma at or above which the person 596
is impaired for purposes of operating any vehicle, streetcar, or 597
trackless trolley within this state, the rule is in effect, and 598
the person has a concentration of salvia divinorum or salvinorin 599
A of at least that amount so specified by rule in the person's 600
urine, in the person's whole blood, or in the person's blood 601
serum or plasma. 602

(2) No person who, within twenty years of the conduct 603
described in division (A) (2) (a) of this section, previously has 604
been convicted of or pleaded guilty to a violation of this 605
division, a violation of division (A) (1) or (B) of this section, 606
or any other equivalent offense shall do both of the following: 607

(a) Operate any vehicle, streetcar, or trackless trolley 608
within this state while under the influence of alcohol, a drug 609
of abuse, or a combination of them; 610

(b) Subsequent to being arrested for operating the 611
vehicle, streetcar, or trackless trolley as described in 612
division (A) (2) (a) of this section, being asked by a law 613
enforcement officer to submit to a chemical test or tests under 614
section 4511.191 of the Revised Code, and being advised by the 615
officer in accordance with section 4511.192 of the Revised Code 616
of the consequences of the person's refusal or submission to the 617
test or tests, refuse to submit to the test or tests. 618

(B) No person under twenty-one years of age shall operate 619
any vehicle, streetcar, or trackless trolley within this state, 620
if, at the time of the operation, any of the following apply: 621

(1) The person has a concentration of at least two- 622
hundredths of one per cent but less than eight-hundredths of one 623
per cent by weight per unit volume of alcohol in the person's 624
whole blood. 625

(2) The person has a concentration of at least three- 626
hundredths of one per cent but less than ninety-six-thousandths 627
of one per cent by weight per unit volume of alcohol in the 628
person's blood serum or plasma. 629

(3) The person has a concentration of at least two- 630
hundredths of one gram but less than eight-hundredths of one 631
gram by weight of alcohol per two hundred ten liters of the 632
person's breath. 633

(4) The person has a concentration of at least twenty- 634
eight one-thousandths of one gram but less than eleven- 635
hundredths of one gram by weight of alcohol per one hundred 636

milliliters of the person's urine. 637

(C) In any proceeding arising out of one incident, a 638
person may be charged with a violation of division (A) (1) (a) or 639
(A) (2) and a violation of division (B) (1), (2), or (3) of this 640
section, but the person may not be convicted of more than one 641
violation of these divisions. 642

(D) (1) (a) In any criminal prosecution or juvenile court 643
proceeding for a violation of division (A) (1) (a) of this section 644
or for an equivalent offense that is vehicle-related, the result 645
of any test of any blood or urine withdrawn and analyzed at any 646
health care provider, as defined in section 2317.02 of the 647
Revised Code, may be admitted with expert testimony to be 648
considered with any other relevant and competent evidence in 649
determining the guilt or innocence of the defendant. 650

(b) In any criminal prosecution or juvenile court 651
proceeding for a violation of division (A) or (B) of this 652
section or for an equivalent offense that is vehicle-related, 653
the court may admit evidence on the concentration of alcohol, 654
drugs of abuse, controlled substances, metabolites of a 655
controlled substance, or a combination of them in the 656
defendant's whole blood, blood serum or plasma, breath, urine, 657
or other bodily substance at the time of the alleged violation 658
as shown by chemical analysis of the substance withdrawn within 659
three hours of the time of the alleged violation. The three-hour 660
time limit specified in this division regarding the admission of 661
evidence does not extend or affect the two-hour time limit 662
specified in division (A) of section 4511.192 of the Revised 663
Code as the maximum period of time during which a person may 664
consent to a chemical test or tests as described in that 665
section. The court may admit evidence on the concentration of 666

alcohol, drugs of abuse, or a combination of them as described 667
in this division when a person submits to a blood, breath, 668
urine, or other bodily substance test at the request of a law 669
enforcement officer under section 4511.191 of the Revised Code 670
or a blood or urine sample is obtained pursuant to a search 671
warrant. Only a physician, a registered nurse, an emergency 672
medical technician-intermediate, an emergency medical 673
technician-paramedic, or a qualified technician, chemist, or 674
phlebotomist shall withdraw a blood sample for the purpose of 675
determining the alcohol, drug, controlled substance, metabolite 676
of a controlled substance, or combination content of the whole 677
blood, blood serum, or blood plasma. This limitation does not 678
apply to the taking of breath or urine specimens. A person 679
authorized to withdraw blood under this division may refuse to 680
withdraw blood under this division, if in that person's opinion, 681
the physical welfare of the person would be endangered by the 682
withdrawing of blood. 683

The bodily substance withdrawn under division (D) (1) (b) of 684
this section shall be analyzed in accordance with methods 685
approved by the director of health by an individual possessing a 686
valid permit issued by the director pursuant to section 3701.143 687
of the Revised Code. 688

~~(e)~~(c) (i) Any evidence or testimony proposed to be 689
admitted under division (D) (1) (b) of this section is subject to 690
the Rules of Evidence, including Evid. R. 702 regarding expert 691
testimony. 692

(ii) The admissibility of any evidence or testimony under 693
division (D) (1) (b) of this section regarding the concentration 694
of alcohol, a drug of abuse, or a combination of them in a 695
person's whole blood, blood serum or plasma, urine, breath, or 696

other bodily substance does not affect, impair, or limit the 697
admissibility of either of the following that is otherwise 698
admissible under the Rules of Evidence: 699

(I) Any evidence or testimony regarding the analysis of a 700
person's whole blood, blood serum or plasma, urine, breath, or 701
other bodily substance under section 3701.143 of the Revised 702
Code; 703

(II) Any evidence or testimony regarding the method, 704
process, reliability, or equipment used in the process of 705
analyzing a person's whole blood, blood serum or plasma, urine, 706
breath, or other bodily substance under section 3701.143 of the 707
Revised Code. 708

The trier of fact shall give any evidence or testimony 709
admitted by the court under division (D) (1) (c) of this section 710
whatever weight the trier of fact considers to be appropriate. 711

(d) As used in division (D) (1) (b) of this section, 712
"emergency medical technician-intermediate" and "emergency 713
medical technician-paramedic" have the same meanings as in 714
section 4765.01 of the Revised Code. 715

(2) In a criminal prosecution or juvenile court proceeding 716
for a violation of division (A) of this section or for an 717
equivalent offense that is vehicle-related, if there was at the 718
time the bodily substance was withdrawn a concentration of less 719
than the applicable concentration of alcohol specified in 720
divisions (A) (1) (b), (c), (d), and (e) of this section or less 721
than the applicable concentration of a listed controlled 722
substance or a listed metabolite of a controlled substance 723
specified for a violation of division (A) (1) (j) of this section, 724
that fact may be considered with other competent evidence in 725

determining the guilt or innocence of the defendant. This 726
division does not limit or affect a criminal prosecution or 727
juvenile court proceeding for a violation of division (B) of 728
this section or for an equivalent offense that is substantially 729
equivalent to that division. 730

(3) Upon the request of the person who was tested, the 731
results of the chemical test shall be made available to the 732
person or the person's attorney, immediately upon the completion 733
of the chemical test analysis. 734

If the chemical test was obtained pursuant to division (D) 735
(1) (b) of this section, the person tested may have a physician, 736
a registered nurse, or a qualified technician, chemist, or 737
phlebotomist of the person's own choosing administer a chemical 738
test or tests, at the person's expense, in addition to any 739
administered at the request of a law enforcement officer. If the 740
person was under arrest as described in division (A) (5) of 741
section 4511.191 of the Revised Code, the arresting officer 742
shall advise the person at the time of the arrest that the 743
person may have an independent chemical test taken at the 744
person's own expense. If the person was under arrest other than 745
described in division (A) (5) of section 4511.191 of the Revised 746
Code, the form to be read to the person to be tested, as 747
required under section 4511.192 of the Revised Code, shall state 748
that the person may have an independent test performed at the 749
person's expense. The failure or inability to obtain an 750
additional chemical test by a person shall not preclude the 751
admission of evidence relating to the chemical test or tests 752
taken at the request of a law enforcement officer. 753

(4) (a) As used in divisions (D) (4) (b) and (c) of this 754
section, "national highway traffic safety administration" means 755

the national highway traffic safety administration established 756
as an administration of the United States department of 757
transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105. 758

(b) In any criminal prosecution or juvenile court 759
proceeding for a violation of division (A) or (B) of this 760
section, of a municipal ordinance relating to operating a 761
vehicle while under the influence of alcohol, a drug of abuse, 762
or alcohol and a drug of abuse, or of a municipal ordinance 763
relating to operating a vehicle with a prohibited concentration 764
of alcohol, a controlled substance, or a metabolite of a 765
controlled substance in the whole blood, blood serum or plasma, 766
breath, or urine, if a law enforcement officer has administered 767
a field sobriety test to the operator of the vehicle involved in 768
the violation and if it is shown by clear and convincing 769
evidence that the officer administered the test in substantial 770
compliance with the testing standards for any reliable, 771
credible, and generally accepted field sobriety tests that were 772
in effect at the time the tests were administered, including, 773
but not limited to, any testing standards then in effect that 774
were set by the national highway traffic safety administration, 775
all of the following apply: 776

(i) The officer may testify concerning the results of the 777
field sobriety test so administered. 778

(ii) The prosecution may introduce the results of the 779
field sobriety test so administered as evidence in any 780
proceedings in the criminal prosecution or juvenile court 781
proceeding. 782

(iii) If testimony is presented or evidence is introduced 783
under division (D) (4) (b) (i) or (ii) of this section and if the 784
testimony or evidence is admissible under the Rules of Evidence, 785

the court shall admit the testimony or evidence and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.

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

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

(i) The person has a concentration of at least twenty-five nanograms of delta-9-tetrahydrocannabinol per milliliter of the person's urine.

(ii) The person has a concentration of at least five nanograms of delta-9-tetrahydrocannabinol per milliliter of the person's whole blood or blood serum or plasma.

(b) (i) If the court admits any evidence or testimony submitted by the prosecution under division (D) (1) (b) of this section that demonstrates that a person had a concentration of delta-9-tetrahydrocannabinol that exceeds one of the levels specified in division (D) (5) (a) of this section, the trier of fact may, without expert testimony, infer that the person was under the influence of marihuana in violation of division (A) (1) (a) of this section.

(ii) The inference that a person was under the influence of marihuana in violation of division (A) (1) (a) of this section

may be supported or rebutted by either party with any evidence 815
or testimony that complies with the Rules of Evidence. 816

(c) In determining whether a person was under the 817
influence of marihuana, the trier of fact shall consider all 818
relevant and competent evidence, including the inference, and 819
give the evidence whatever weight the trier of fact considers to 820
be appropriate. 821

(E) (1) Subject to division (E) (3) of this section, in any 822
criminal prosecution or juvenile court proceeding for a 823
violation of division (A) (1) (b), (c), (d), (e), (f), (g), (h), 824
(i), or (j) or (B) (1), (2), (3), or (4) of this section or for 825
an equivalent offense that is substantially equivalent to any of 826
those divisions, a laboratory report from any laboratory 827
personnel issued a permit by the department of health 828
authorizing an analysis as described in this division that 829
contains an analysis of the whole blood, blood serum or plasma, 830
breath, urine, or other bodily substance tested and that 831
contains all of the information specified in this division shall 832
be admitted as prima-facie evidence of the information and 833
statements that the report contains. The laboratory report shall 834
contain all of the following: 835

(a) The signature, under oath, of any person who performed 836
the analysis; 837

(b) Any findings as to the identity and quantity of 838
alcohol, a drug of abuse, a controlled substance, a metabolite 839
of a controlled substance, or a combination of them that was 840
found; 841

(c) A copy of a notarized statement by the laboratory 842
director or a designee of the director that contains the name of 843

each certified analyst or test performer involved with the 844
report, the analyst's or test performer's employment 845
relationship with the laboratory that issued the report, and a 846
notation that performing an analysis of the type involved is 847
part of the analyst's or test performer's regular duties; 848

(d) An outline of the analyst's or test performer's 849
education, training, and experience in performing the type of 850
analysis involved and a certification that the laboratory 851
satisfies appropriate quality control standards in general and, 852
in this particular analysis, under rules of the department of 853
health. 854

(2) Notwithstanding any other provision of law regarding 855
the admission of evidence, a report of the type described in 856
division (E) (1) of this section is not admissible against the 857
defendant to whom it pertains in any proceeding, other than a 858
preliminary hearing or a grand jury proceeding, unless the 859
prosecutor has served a copy of the report on the defendant's 860
attorney or, if the defendant has no attorney, on the defendant. 861

(3) A report of the type described in division (E) (1) of 862
this section shall not be prima-facie evidence of the contents, 863
identity, or amount of any substance if, within seven days after 864
the defendant to whom the report pertains or the defendant's 865
attorney receives a copy of the report, the defendant or the 866
defendant's attorney demands the testimony of the person who 867
signed the report. The judge in the case may extend the seven- 868
day time limit in the interest of justice. 869

(F) Except as otherwise provided in this division, any 870
physician, registered nurse, emergency medical technician- 871
intermediate, emergency medical technician-paramedic, or 872
qualified technician, chemist, or phlebotomist who withdraws 873

blood from a person pursuant to this section or section 4511.191 874
or 4511.192 of the Revised Code, and any hospital, first-aid 875
station, or clinic at which blood is withdrawn from a person 876
pursuant to this section or section 4511.191 or 4511.192 of the 877
Revised Code, is immune from criminal liability and civil 878
liability based upon a claim of assault and battery or any other 879
claim that is not a claim of malpractice, for any act performed 880
in withdrawing blood from the person. The immunity provided in 881
this division also extends to an emergency medical service 882
organization that employs an emergency medical technician- 883
intermediate or emergency medical technician-paramedic who 884
withdraws blood under this section. The immunity provided in 885
this division is not available to a person who withdraws blood 886
if the person engages in willful or wanton misconduct. 887

As used in this division, "emergency medical technician- 888
intermediate" and "emergency medical technician-paramedic" have 889
the same meanings as in section 4765.01 of the Revised Code. 890

(G) (1) Whoever violates any provision of divisions (A) (1) 891
(a) to (i) or (A) (2) of this section is guilty of operating a 892
vehicle under the influence of alcohol, a drug of abuse, or a 893
combination of them. Whoever violates division (A) (1) (j) of this 894
section is guilty of operating a vehicle while under the 895
influence of a listed controlled substance or a listed 896
metabolite of a controlled substance. The court shall sentence 897
the offender for either offense under Chapter 2929. of the 898
Revised Code, except as otherwise authorized or required by 899
divisions (G) (1) (a) to (e) of this section: 900

(a) Except as otherwise provided in division (G) (1) (b), 901
(c), (d), or (e) of this section, the offender is guilty of a 902
misdemeanor of the first degree, and the court shall sentence 903

the offender to all of the following: 904

(i) If the sentence is being imposed for a violation of 905
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, 906
a mandatory jail term of three consecutive days. As used in this 907
division, three consecutive days means seventy-two consecutive 908
hours. The court may sentence an offender to both an 909
intervention program and a jail term. The court may impose a 910
jail term in addition to the three-day mandatory jail term or 911
intervention program. However, in no case shall the cumulative 912
jail term imposed for the offense exceed six months. 913

The court may suspend the execution of the three-day jail 914
term under this division if the court, in lieu of that suspended 915
term, places the offender under a community control sanction 916
pursuant to section 2929.25 of the Revised Code and requires the 917
offender to attend, for three consecutive days, a drivers' 918
intervention program certified under section 5119.38 of the 919
Revised Code. The court also may suspend the execution of any 920
part of the three-day jail term under this division if it places 921
the offender under a community control sanction pursuant to 922
section 2929.25 of the Revised Code for part of the three days, 923
requires the offender to attend for the suspended part of the 924
term a drivers' intervention program so certified, and sentences 925
the offender to a jail term equal to the remainder of the three 926
consecutive days that the offender does not spend attending the 927
program. The court may require the offender, as a condition of 928
community control and in addition to the required attendance at 929
a drivers' intervention program, to attend and satisfactorily 930
complete any treatment or education programs that comply with 931
the minimum standards adopted pursuant to Chapter 5119. of the 932
Revised Code by the director of mental health and addiction 933
services that the operators of the drivers' intervention program 934

determine that the offender should attend and to report 935
periodically to the court on the offender's progress in the 936
programs. The court also may impose on the offender any other 937
conditions of community control that it considers necessary. 938

If the court grants unlimited driving privileges to a 939
first-time offender under section 4510.022 of the Revised Code, 940
all penalties imposed upon the offender by the court under 941
division (G) (1) (a) (i) of this section for the offense apply, 942
except that the court shall suspend any mandatory or additional 943
jail term imposed by the court under division (G) (1) (a) (i) of 944
this section upon granting unlimited driving privileges in 945
accordance with section 4510.022 of the Revised Code. 946

(ii) If the sentence is being imposed for a violation of 947
division (A) (1) (f), (g), (h), or (i) or division (A) (2) of this 948
section, except as otherwise provided in this division, a 949
mandatory jail term of at least three consecutive days and a 950
requirement that the offender attend, for three consecutive 951
days, a drivers' intervention program that is certified pursuant 952
to section 5119.38 of the Revised Code. As used in this 953
division, three consecutive days means seventy-two consecutive 954
hours. If the court determines that the offender is not 955
conducive to treatment in a drivers' intervention program, if 956
the offender refuses to attend a drivers' intervention program, 957
or if the jail at which the offender is to serve the jail term 958
imposed can provide a driver's intervention program, the court 959
shall sentence the offender to a mandatory jail term of at least 960
six consecutive days. 961

If the court grants unlimited driving privileges to a 962
first-time offender under section 4510.022 of the Revised Code, 963
all penalties imposed upon the offender by the court under 964

division (G) (1) (a) (ii) of this section for the offense apply, 965
except that the court shall suspend any mandatory or additional 966
jail term imposed by the court under division (G) (1) (a) (ii) of 967
this section upon granting unlimited driving privileges in 968
accordance with section 4510.022 of the Revised Code. 969

The court may require the offender, under a community 970
control sanction imposed under section 2929.25 of the Revised 971
Code, to attend and satisfactorily complete any treatment or 972
education programs that comply with the minimum standards 973
adopted pursuant to Chapter 5119. of the Revised Code by the 974
director of mental health and addiction services, in addition to 975
the required attendance at drivers' intervention program, that 976
the operators of the drivers' intervention program determine 977
that the offender should attend and to report periodically to 978
the court on the offender's progress in the programs. The court 979
also may impose any other conditions of community control on the 980
offender that it considers necessary. 981

(iii) In all cases, a fine of not less than three hundred 982
seventy-five and not more than one thousand seventy-five 983
dollars; 984

(iv) In all cases, a suspension of the offender's driver's 985
or commercial driver's license or permit or nonresident 986
operating privilege for a definite period of one to three years. 987
The court may grant limited driving privileges relative to the 988
suspension under sections 4510.021 and 4510.13 of the Revised 989
Code. The court may grant unlimited driving privileges with an 990
ignition interlock device relative to the suspension and may 991
reduce the period of suspension as authorized under section 992
4510.022 of the Revised Code. 993

(b) Except as otherwise provided in division (G) (1) (e) of 994

this section, an offender who, within ten years of the offense, 995
previously has been convicted of or pleaded guilty to one 996
violation of division (A) or (B) of this section or one other 997
equivalent offense is guilty of a misdemeanor of the first 998
degree. The court shall sentence the offender to all of the 999
following: 1000

(i) If the sentence is being imposed for a violation of 1001
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, 1002
a mandatory jail term of ten consecutive days. The court shall 1003
impose the ten-day mandatory jail term under this division 1004
unless, subject to division (G)(3) of this section, it instead 1005
imposes a sentence under that division consisting of both a jail 1006
term and a term of house arrest with electronic monitoring, with 1007
continuous alcohol monitoring, or with both electronic 1008
monitoring and continuous alcohol monitoring. The court may 1009
impose a jail term in addition to the ten-day mandatory jail 1010
term. The cumulative jail term imposed for the offense shall not 1011
exceed six months. 1012

In addition to the jail term or the term of house arrest 1013
with electronic monitoring or continuous alcohol monitoring or 1014
both types of monitoring and jail term, the court shall require 1015
the offender to be assessed by a community addiction services 1016
provider that is authorized by section 5119.21 of the Revised 1017
Code, subject to division (I) of this section, and shall order 1018
the offender to follow the treatment recommendations of the 1019
services provider. The purpose of the assessment is to determine 1020
the degree of the offender's alcohol usage and to determine 1021
whether or not treatment is warranted. Upon the request of the 1022
court, the services provider shall submit the results of the 1023
assessment to the court, including all treatment recommendations 1024
and clinical diagnoses related to alcohol use. 1025

(ii) If the sentence is being imposed for a violation of 1026
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1027
section, except as otherwise provided in this division, a 1028
mandatory jail term of twenty consecutive days. The court shall 1029
impose the twenty-day mandatory jail term under this division 1030
unless, subject to division (G)(3) of this section, it instead 1031
imposes a sentence under that division consisting of both a jail 1032
term and a term of house arrest with electronic monitoring, with 1033
continuous alcohol monitoring, or with both electronic 1034
monitoring and continuous alcohol monitoring. The court may 1035
impose a jail term in addition to the twenty-day mandatory jail 1036
term. The cumulative jail term imposed for the offense shall not 1037
exceed six months. 1038

In addition to the jail term or the term of house arrest 1039
with electronic monitoring or continuous alcohol monitoring or 1040
both types of monitoring and jail term, the court shall require 1041
the offender to be assessed by a community addiction service 1042
provider that is authorized by section 5119.21 of the Revised 1043
Code, subject to division (I) of this section, and shall order 1044
the offender to follow the treatment recommendations of the 1045
services provider. The purpose of the assessment is to determine 1046
the degree of the offender's alcohol usage and to determine 1047
whether or not treatment is warranted. Upon the request of the 1048
court, the services provider shall submit the results of the 1049
assessment to the court, including all treatment recommendations 1050
and clinical diagnoses related to alcohol use. 1051

(iii) In all cases, notwithstanding the fines set forth in 1052
Chapter 2929. of the Revised Code, a fine of not less than five 1053
hundred twenty-five and not more than one thousand six hundred 1054
twenty-five dollars; 1055

(iv) In all cases, a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for a definite period of one to seven years. 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, immobilization of the vehicle involved in the offense for ninety days in accordance with section 4503.233 of the Revised Code and impoundment of the license plates of that vehicle for ninety days.

(c) Except as otherwise provided in division (G)(1)(e) of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to two violations of division (A) or (B) of this section or other equivalent offenses is guilty of a misdemeanor. 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 jail term of thirty consecutive days. The court shall impose the thirty-day mandatory jail term under this division unless, subject to division (G)(3) of this section, it instead imposes a sentence under that division consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the thirty-day mandatory jail term. Notwithstanding the jail terms set forth in sections 2929.21 to 2929.28 of the Revised Code, the additional jail term shall not exceed one year, and the cumulative jail

term imposed for the offense shall not exceed one year. 1086

(ii) If the sentence is being imposed for a violation of 1087
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1088
section, a mandatory jail term of sixty consecutive days. The 1089
court shall impose the sixty-day mandatory jail term under this 1090
division unless, subject to division (G)(3) of this section, it 1091
instead imposes a sentence under that division consisting of 1092
both a jail term and a term of house arrest with electronic 1093
monitoring, with continuous alcohol monitoring, or with both 1094
electronic monitoring and continuous alcohol monitoring. The 1095
court may impose a jail term in addition to the sixty-day 1096
mandatory jail term. Notwithstanding the jail terms set forth in 1097
sections 2929.21 to 2929.28 of the Revised Code, the additional 1098
jail term shall not exceed one year, and the cumulative jail 1099
term imposed for the offense shall not exceed one year. 1100

(iii) In all cases, notwithstanding the fines set forth in 1101
Chapter 2929. of the Revised Code, a fine of not less than eight 1102
hundred fifty and not more than two thousand seven hundred fifty 1103
dollars; 1104

(iv) In all cases, a suspension of the offender's driver's 1105
license, commercial driver's license, temporary instruction 1106
permit, probationary license, or nonresident operating privilege 1107
for a definite period of two to twelve years. The court may 1108
grant limited driving privileges relative to the suspension 1109
under sections 4510.021 and 4510.13 of the Revised Code. 1110

(v) In all cases, if the vehicle is registered in the 1111
offender's name, criminal forfeiture of the vehicle involved in 1112
the offense in accordance with section 4503.234 of the Revised 1113
Code. Division (G)(6) of this section applies regarding any 1114
vehicle that is subject to an order of criminal forfeiture under 1115

this division. 1116

(vi) In all cases, the court shall order the offender to 1117
participate with a community addiction services provider 1118
authorized by section 5119.21 of the Revised Code, subject to 1119
division (I) of this section, and shall order the offender to 1120
follow the treatment recommendations of the services provider. 1121
The operator of the services provider shall determine and assess 1122
the degree of the offender's alcohol dependency and shall make 1123
recommendations for treatment. Upon the request of the court, 1124
the services provider shall submit the results of the assessment 1125
to the court, including all treatment recommendations and 1126
clinical diagnoses related to alcohol use. 1127

(d) Except as otherwise provided in division (G) (1) (e) of 1128
this section, an offender who, within ten years of the offense, 1129
previously has been convicted of or pleaded guilty to three or 1130
four violations of division (A) or (B) of this section or other 1131
equivalent offenses or an offender who, within twenty years of 1132
the offense, previously has been convicted of or pleaded guilty 1133
to five or more violations of that nature is guilty of a felony 1134
of the fourth degree. The court shall sentence the offender to 1135
all of the following: 1136

(i) If the sentence is being imposed for a violation of 1137
division (A) (1) (a), (b), (c), (d), (e), or (j) of this section, 1138
a mandatory prison term of one, two, three, four, or five years 1139
as required by and in accordance with division (G) (2) of section 1140
2929.13 of the Revised Code if the offender also is convicted of 1141
or also pleads guilty to a specification of the type described 1142
in section 2941.1413 of the Revised Code or, in the discretion 1143
of the court, either a mandatory term of local incarceration of 1144
sixty consecutive days in accordance with division (G) (1) of 1145

section 2929.13 of the Revised Code or a mandatory prison term 1146
of sixty consecutive days in accordance with division (G) (2) of 1147
that section if the offender is not convicted of and does not 1148
plead guilty to a specification of that type. If the court 1149
imposes a mandatory term of local incarceration, it may impose a 1150
jail term in addition to the sixty-day mandatory term, the 1151
cumulative total of the mandatory term and the jail term for the 1152
offense shall not exceed one year, and, except as provided in 1153
division (A) (1) of section 2929.13 of the Revised Code, no 1154
prison term is authorized for the offense. If the court imposes 1155
a mandatory prison term, notwithstanding division (A) (4) of 1156
section 2929.14 of the Revised Code, it also may sentence the 1157
offender to a definite prison term that shall be not less than 1158
six months and not more than thirty months and the prison terms 1159
shall be imposed as described in division (G) (2) of section 1160
2929.13 of the Revised Code. If the court imposes a mandatory 1161
prison term or mandatory prison term and additional prison term, 1162
in addition to the term or terms so imposed, the court also may 1163
sentence the offender to a community control sanction for the 1164
offense, but the offender shall serve all of the prison terms so 1165
imposed prior to serving the community control sanction. 1166

(ii) If the sentence is being imposed for a violation of 1167
division (A) (1) (f), (g), (h), or (i) or division (A) (2) of this 1168
section, a mandatory prison term of one, two, three, four, or 1169
five years as required by and in accordance with division (G) (2) 1170
of section 2929.13 of the Revised Code if the offender also is 1171
convicted of or also pleads guilty to a specification of the 1172
type described in section 2941.1413 of the Revised Code or, in 1173
the discretion of the court, either a mandatory term of local 1174
incarceration of one hundred twenty consecutive days in 1175
accordance with division (G) (1) of section 2929.13 of the 1176

Revised Code or a mandatory prison term of one hundred twenty 1177
consecutive days in accordance with division (G) (2) of that 1178
section if the offender is not convicted of and does not plead 1179
guilty to a specification of that type. If the court imposes a 1180
mandatory term of local incarceration, it may impose a jail term 1181
in addition to the one hundred twenty-day mandatory term, the 1182
cumulative total of the mandatory term and the jail term for the 1183
offense shall not exceed one year, and, except as provided in 1184
division (A) (1) of section 2929.13 of the Revised Code, no 1185
prison term is authorized for the offense. If the court imposes 1186
a mandatory prison term, notwithstanding division (A) (4) of 1187
section 2929.14 of the Revised Code, it also may sentence the 1188
offender to a definite prison term that shall be not less than 1189
six months and not more than thirty months and the prison terms 1190
shall be imposed as described in division (G) (2) of section 1191
2929.13 of the Revised Code. If the court imposes a mandatory 1192
prison term or mandatory prison term and additional prison term, 1193
in addition to the term or terms so imposed, the court also may 1194
sentence the offender to a community control sanction for the 1195
offense, but the offender shall serve all of the prison terms so 1196
imposed prior to serving the community control sanction. 1197

(iii) In all cases, notwithstanding section 2929.18 of the 1198
Revised Code, a fine of not less than one thousand three hundred 1199
fifty nor more than ten thousand five hundred dollars; 1200

(iv) In all cases, a class two license suspension of the 1201
offender's driver's license, commercial driver's license, 1202
temporary instruction permit, probationary license, or 1203
nonresident operating privilege from the range specified in 1204
division (A) (2) of section 4510.02 of the Revised Code. The 1205
court may grant limited driving privileges relative to the 1206
suspension under sections 4510.021 and 4510.13 of the Revised 1207

Code. 1208

(v) In all cases, if the vehicle is registered in the 1209
offender's name, criminal forfeiture of the vehicle involved in 1210
the offense in accordance with section 4503.234 of the Revised 1211
Code. Division (G) (6) of this section applies regarding any 1212
vehicle that is subject to an order of criminal forfeiture under 1213
this division. 1214

(vi) In all cases, the court shall order the offender to 1215
participate with a community addiction services provider 1216
authorized by section 5119.21 of the Revised Code, subject to 1217
division (I) of this section, and shall order the offender to 1218
follow the treatment recommendations of the services provider. 1219
The operator of the services provider shall determine and assess 1220
the degree of the offender's alcohol dependency and shall make 1221
recommendations for treatment. Upon the request of the court, 1222
the services provider shall submit the results of the assessment 1223
to the court, including all treatment recommendations and 1224
clinical diagnoses related to alcohol use. 1225

(vii) In all cases, if the court sentences the offender to 1226
a mandatory term of local incarceration, in addition to the 1227
mandatory term, the court, pursuant to section 2929.17 of the 1228
Revised Code, may impose a term of house arrest with electronic 1229
monitoring. The term shall not commence until after the offender 1230
has served the mandatory term of local incarceration. 1231

(e) An offender who previously has been convicted of or 1232
pleaded guilty to a violation of division (A) of this section 1233
that was a felony, regardless of when the violation and the 1234
conviction or guilty plea occurred, is guilty of a felony of the 1235
third degree. The court shall sentence the offender to all of 1236
the following: 1237

(i) If the offender is being sentenced for a violation of 1238
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, 1239
a mandatory prison term of one, two, three, four, or five years 1240
as required by and in accordance with division (G)(2) of section 1241
2929.13 of the Revised Code if the offender also is convicted of 1242
or also pleads guilty to a specification of the type described 1243
in section 2941.1413 of the Revised Code or a mandatory prison 1244
term of sixty consecutive days in accordance with division (G) 1245
(2) of section 2929.13 of the Revised Code if the offender is 1246
not convicted of and does not plead guilty to a specification of 1247
that type. The court may impose a prison term in addition to the 1248
mandatory prison term. The cumulative total of a sixty-day 1249
mandatory prison term and the additional prison term for the 1250
offense shall not exceed five years. In addition to the 1251
mandatory prison term or mandatory prison term and additional 1252
prison term the court imposes, the court also may sentence the 1253
offender to a community control sanction for the offense, but 1254
the offender shall serve all of the prison terms so imposed 1255
prior to serving the community control sanction. 1256

(ii) If the sentence is being imposed for a violation of 1257
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1258
section, a mandatory prison term of one, two, three, four, or 1259
five years as required by and in accordance with division (G)(2) 1260
of section 2929.13 of the Revised Code if the offender also is 1261
convicted of or also pleads guilty to a specification of the 1262
type described in section 2941.1413 of the Revised Code or a 1263
mandatory prison term of one hundred twenty consecutive days in 1264
accordance with division (G)(2) of section 2929.13 of the 1265
Revised Code if the offender is not convicted of and does not 1266
plead guilty to a specification of that type. The court may 1267
impose a prison term in addition to the mandatory prison term. 1268

The cumulative total of a one hundred twenty-day mandatory 1269
prison term and the additional prison term for the offense shall 1270
not exceed five years. In addition to the mandatory prison term 1271
or mandatory prison term and additional prison term the court 1272
imposes, the court also may sentence the offender to a community 1273
control sanction for the offense, but the offender shall serve 1274
all of the prison terms so imposed prior to serving the 1275
community control sanction. 1276

(iii) In all cases, notwithstanding section 2929.18 of the 1277
Revised Code, a fine of not less than one thousand three hundred 1278
fifty nor more than ten thousand five hundred dollars; 1279

(iv) In all cases, a class two license suspension of the 1280
offender's driver's license, commercial driver's license, 1281
temporary instruction permit, probationary license, or 1282
nonresident operating privilege from the range specified in 1283
division (A) (2) of section 4510.02 of the Revised Code. The 1284
court may grant limited driving privileges relative to the 1285
suspension under sections 4510.021 and 4510.13 of the Revised 1286
Code. 1287

(v) In all cases, if the vehicle is registered in the 1288
offender's name, criminal forfeiture of the vehicle involved in 1289
the offense in accordance with section 4503.234 of the Revised 1290
Code. Division (G) (6) of this section applies regarding any 1291
vehicle that is subject to an order of criminal forfeiture under 1292
this division. 1293

(vi) In all cases, the court shall order the offender to 1294
participate with a community addiction services provider 1295
authorized by section 5119.21 of the Revised Code, subject to 1296
division (I) of this section, and shall order the offender to 1297
follow the treatment recommendations of the services provider. 1298

The operator of the services provider shall determine and assess 1299
the degree of the offender's alcohol dependency and shall make 1300
recommendations for treatment. Upon the request of the court, 1301
the services provider shall submit the results of the assessment 1302
to the court, including all treatment recommendations and 1303
clinical diagnoses related to alcohol use. 1304

(2) An offender who is convicted of or pleads guilty to a 1305
violation of division (A) of this section and who subsequently 1306
seeks reinstatement of the driver's or occupational driver's 1307
license or permit or nonresident operating privilege suspended 1308
under this section as a result of the conviction or guilty plea 1309
shall pay a reinstatement fee as provided in division (F) (2) of 1310
section 4511.191 of the Revised Code. 1311

(3) If an offender is sentenced to a jail term under 1312
division (G) (1) (b) (i) or (ii) or (G) (1) (c) (i) or (ii) of this 1313
section and if, within sixty days of sentencing of the offender, 1314
the court issues a written finding on the record that, due to 1315
the unavailability of space at the jail where the offender is 1316
required to serve the term, the offender will not be able to 1317
begin serving that term within the sixty-day period following 1318
the date of sentencing, the court may impose an alternative 1319
sentence under this division that includes a term of house 1320
arrest with electronic monitoring, with continuous alcohol 1321
monitoring, or with both electronic monitoring and continuous 1322
alcohol monitoring. 1323

As an alternative to a mandatory jail term of ten 1324
consecutive days required by division (G) (1) (b) (i) of this 1325
section, the court, under this division, may sentence the 1326
offender to five consecutive days in jail and not less than 1327
eighteen consecutive days of house arrest with electronic 1328

monitoring, with continuous alcohol monitoring, or with both 1329
electronic monitoring and continuous alcohol monitoring. The 1330
cumulative total of the five consecutive days in jail and the 1331
period of house arrest with electronic monitoring, continuous 1332
alcohol monitoring, or both types of monitoring shall not exceed 1333
six months. The five consecutive days in jail do not have to be 1334
served prior to or consecutively to the period of house arrest. 1335

As an alternative to the mandatory jail term of twenty 1336
consecutive days required by division (G) (1) (b) (ii) of this 1337
section, the court, under this division, may sentence the 1338
offender to ten consecutive days in jail and not less than 1339
thirty-six consecutive days of house arrest with electronic 1340
monitoring, with continuous alcohol monitoring, or with both 1341
electronic monitoring and continuous alcohol monitoring. The 1342
cumulative total of the ten consecutive days in jail and the 1343
period of house arrest with electronic monitoring, continuous 1344
alcohol monitoring, or both types of monitoring shall not exceed 1345
six months. The ten consecutive days in jail do not have to be 1346
served prior to or consecutively to the period of house arrest. 1347

As an alternative to a mandatory jail term of thirty 1348
consecutive days required by division (G) (1) (c) (i) of this 1349
section, the court, under this division, may sentence the 1350
offender to fifteen consecutive days in jail and not less than 1351
fifty-five consecutive days of house arrest with electronic 1352
monitoring, with continuous alcohol monitoring, or with both 1353
electronic monitoring and continuous alcohol monitoring. The 1354
cumulative total of the fifteen consecutive days in jail and the 1355
period of house arrest with electronic monitoring, continuous 1356
alcohol monitoring, or both types of monitoring shall not exceed 1357
one year. The fifteen consecutive days in jail do not have to be 1358
served prior to or consecutively to the period of house arrest. 1359

As an alternative to the mandatory jail term of sixty 1360
consecutive days required by division (G) (1) (c) (ii) of this 1361
section, the court, under this division, may sentence the 1362
offender to thirty consecutive days in jail and not less than 1363
one hundred ten consecutive days of house arrest with electronic 1364
monitoring, with continuous alcohol monitoring, or with both 1365
electronic monitoring and continuous alcohol monitoring. The 1366
cumulative total of the thirty consecutive days in jail and the 1367
period of house arrest with electronic monitoring, continuous 1368
alcohol monitoring, or both types of monitoring shall not exceed 1369
one year. The thirty consecutive days in jail do not have to be 1370
served prior to or consecutively to the period of house arrest. 1371

(4) If an offender's driver's or occupational driver's 1372
license or permit or nonresident operating privilege is 1373
suspended under division (G) of this section and if section 1374
4510.13 of the Revised Code permits the court to grant limited 1375
driving privileges, the court may grant the limited driving 1376
privileges in accordance with that section. If division (A) (7) 1377
of that section requires that the court impose as a condition of 1378
the privileges that the offender must display on the vehicle 1379
that is driven subject to the privileges restricted license 1380
plates that are issued under section 4503.231 of the Revised 1381
Code, except as provided in division (B) of that section, the 1382
court shall impose that condition as one of the conditions of 1383
the limited driving privileges granted to the offender, except 1384
as provided in division (B) of section 4503.231 of the Revised 1385
Code. 1386

(5) Fines imposed under this section for a violation of 1387
division (A) of this section shall be distributed as follows: 1388

(a) Twenty-five dollars of the fine imposed under division 1389

(G) (1) (a) (iii), thirty-five dollars of the fine imposed under 1390
division (G) (1) (b) (iii), one hundred twenty-three dollars of the 1391
fine imposed under division (G) (1) (c) (iii), and two hundred ten 1392
dollars of the fine imposed under division (G) (1) (d) (iii) or (e) 1393
(iii) of this section shall be paid to an enforcement and 1394
education fund established by the legislative authority of the 1395
law enforcement agency in this state that primarily was 1396
responsible for the arrest of the offender, as determined by the 1397
court that imposes the fine. The agency shall use this share to 1398
pay only those costs it incurs in enforcing this section or a 1399
municipal OVI ordinance and in informing the public of the laws 1400
governing the operation of a vehicle while under the influence 1401
of alcohol, the dangers of the operation of a vehicle under the 1402
influence of alcohol, and other information relating to the 1403
operation of a vehicle under the influence of alcohol and the 1404
consumption of alcoholic beverages. 1405

(b) Fifty dollars of the fine imposed under division (G) 1406
(1) (a) (iii) of this section shall be paid to the political 1407
subdivision that pays the cost of housing the offender during 1408
the offender's term of incarceration. If the offender is being 1409
sentenced for a violation of division (A) (1) (a), (b), (c), (d), 1410
(e), or (j) of this section and was confined as a result of the 1411
offense prior to being sentenced for the offense but is not 1412
sentenced to a term of incarceration, the fifty dollars shall be 1413
paid to the political subdivision that paid the cost of housing 1414
the offender during that period of confinement. The political 1415
subdivision shall use the share under this division to pay or 1416
reimburse incarceration or treatment costs it incurs in housing 1417
or providing drug and alcohol treatment to persons who violate 1418
this section or a municipal OVI ordinance, costs of any 1419
immobilizing or disabling device used on the offender's vehicle, 1420

and costs of electronic house arrest equipment needed for 1421
persons who violate this section. 1422

(c) Twenty-five dollars of the fine imposed under division 1423
(G) (1) (a) (iii) and fifty dollars of the fine imposed under 1424
division (G) (1) (b) (iii) of this section shall be deposited into 1425
the county or municipal indigent drivers' alcohol treatment fund 1426
under the control of that court, as created by the county or 1427
municipal corporation under division (F) of section 4511.191 of 1428
the Revised Code. 1429

(d) One hundred fifteen dollars of the fine imposed under 1430
division (G) (1) (b) (iii), two hundred seventy-seven dollars of 1431
the fine imposed under division (G) (1) (c) (iii), and four hundred 1432
forty dollars of the fine imposed under division (G) (1) (d) (iii) 1433
or (e) (iii) of this section shall be paid to the political 1434
subdivision that pays the cost of housing the offender during 1435
the offender's term of incarceration. The political subdivision 1436
shall use this share to pay or reimburse incarceration or 1437
treatment costs it incurs in housing or providing drug and 1438
alcohol treatment to persons who violate this section or a 1439
municipal OVI ordinance, costs for any immobilizing or disabling 1440
device used on the offender's vehicle, and costs of electronic 1441
house arrest equipment needed for persons who violate this 1442
section. 1443

(e) Fifty dollars of the fine imposed under divisions (G) 1444
(1) (a) (iii), (G) (1) (b) (iii), (G) (1) (c) (iii), (G) (1) (d) (iii), and 1445
(G) (1) (e) (iii) of this section shall be deposited into the 1446
special projects fund of the court in which the offender was 1447
convicted and that is established under division (E) (1) of 1448
section 2303.201, division (B) (1) of section 1901.26, or 1449
division (B) (1) of section 1907.24 of the Revised Code, to be 1450

used exclusively to cover the cost of immobilizing or disabling 1451
devices, including certified ignition interlock devices, and 1452
remote alcohol monitoring devices for indigent offenders who are 1453
required by a judge to use either of these devices. If the court 1454
in which the offender was convicted does not have a special 1455
projects fund that is established under division (E) (1) of 1456
section 2303.201, division (B) (1) of section 1901.26, or 1457
division (B) (1) of section 1907.24 of the Revised Code, the 1458
fifty dollars shall be deposited into the indigent drivers 1459
interlock and alcohol monitoring fund under division (I) of 1460
section 4511.191 of the Revised Code. 1461

(f) Seventy-five dollars of the fine imposed under 1462
division (G) (1) (a) (iii), one hundred twenty-five dollars of the 1463
fine imposed under division (G) (1) (b) (iii), two hundred fifty 1464
dollars of the fine imposed under division (G) (1) (c) (iii), and 1465
five hundred dollars of the fine imposed under division (G) (1) 1466
(d) (iii) or (e) (iii) of this section shall be transmitted to the 1467
treasurer of state for deposit into the indigent defense support 1468
fund established under section 120.08 of the Revised Code. 1469

(g) The balance of the fine imposed under division (G) (1) 1470
(a) (iii), (b) (iii), (c) (iii), (d) (iii), or (e) (iii) of this 1471
section shall be disbursed as otherwise provided by law. 1472

(6) If title to a motor vehicle that is subject to an 1473
order of criminal forfeiture under division (G) (1) (c), (d), or 1474
(e) of this section is assigned or transferred and division (B) 1475
(2) or (3) of section 4503.234 of the Revised Code applies, in 1476
addition to or independent of any other penalty established by 1477
law, the court may fine the offender the value of the vehicle as 1478
determined by publications of the national automobile dealers 1479
association. The proceeds of any fine so imposed shall be 1480

distributed in accordance with division (C) (2) of that section. 1481

(7) In all cases in which an offender is sentenced under 1482
division (G) of this section, the offender shall provide the 1483
court with proof of financial responsibility as defined in 1484
section 4509.01 of the Revised Code. If the offender fails to 1485
provide that proof of financial responsibility, the court, in 1486
addition to any other penalties provided by law, may order 1487
restitution pursuant to section 2929.18 or 2929.28 of the 1488
Revised Code in an amount not exceeding five thousand dollars 1489
for any economic loss arising from an accident or collision that 1490
was the direct and proximate result of the offender's operation 1491
of the vehicle before, during, or after committing the offense 1492
for which the offender is sentenced under division (G) of this 1493
section. 1494

(8) A court may order an offender to reimburse a law 1495
enforcement agency for any costs incurred by the agency with 1496
respect to a chemical test or tests administered to the offender 1497
if all of the following apply: 1498

(a) The offender is convicted of or pleads guilty to a 1499
violation of division (A) of this section. 1500

(b) The test or tests were of the offender's whole blood, 1501
blood serum or plasma, or urine. 1502

(c) The test or tests indicated that the offender had a 1503
prohibited concentration of a controlled substance or a 1504
metabolite of a controlled substance in the offender's whole 1505
blood, blood serum or plasma, or urine at the time of the 1506
offense. 1507

(9) As used in division (G) of this section, "electronic 1508
monitoring," "mandatory prison term," and "mandatory term of 1509

local incarceration" have the same meanings as in section 1510
2929.01 of the Revised Code. 1511

(H) Whoever violates division (B) of this section is 1512
guilty of operating a vehicle after underage alcohol consumption 1513
and shall be punished as follows: 1514

(1) Except as otherwise provided in division (H) (2) of 1515
this section, the offender is guilty of a misdemeanor of the 1516
fourth degree. In addition to any other sanction imposed for the 1517
offense, the court shall impose a class six suspension of the 1518
offender's driver's license, commercial driver's license, 1519
temporary instruction permit, probationary license, or 1520
nonresident operating privilege from the range specified in 1521
division (A) (6) of section 4510.02 of the Revised Code. The 1522
court may grant limited driving privileges relative to the 1523
suspension under sections 4510.021 and 4510.13 of the Revised 1524
Code. The court may grant unlimited driving privileges with an 1525
ignition interlock device relative to the suspension and may 1526
reduce the period of suspension as authorized under section 1527
4510.022 of the Revised Code. If the court grants unlimited 1528
driving privileges under section 4510.022 of the Revised Code, 1529
the court shall suspend any jail term imposed under division (H) 1530
(1) of this section as required under that section. 1531

(2) If, within one year of the offense, the offender 1532
previously has been convicted of or pleaded guilty to one or 1533
more violations of division (A) or (B) of this section or other 1534
equivalent offenses, the offender is guilty of a misdemeanor of 1535
the third degree. In addition to any other sanction imposed for 1536
the offense, the court shall impose a class four suspension of 1537
the offender's driver's license, commercial driver's license, 1538
temporary instruction permit, probationary license, or 1539

nonresident operating privilege from the range specified in 1540
division (A) (4) of section 4510.02 of the Revised Code. The 1541
court may grant limited driving privileges relative to the 1542
suspension under sections 4510.021 and 4510.13 of the Revised 1543
Code. 1544

(3) If the offender also is convicted of or also pleads 1545
guilty to a specification of the type described in section 1546
2941.1416 of the Revised Code and if the court imposes a jail 1547
term for the violation of division (B) of this section, the 1548
court shall impose upon the offender an additional definite jail 1549
term pursuant to division (E) of section 2929.24 of the Revised 1550
Code. 1551

(4) The offender shall provide the court with proof of 1552
financial responsibility as defined in section 4509.01 of the 1553
Revised Code. If the offender fails to provide that proof of 1554
financial responsibility, then, in addition to any other 1555
penalties provided by law, the court may order restitution 1556
pursuant to section 2929.28 of the Revised Code in an amount not 1557
exceeding five thousand dollars for any economic loss arising 1558
from an accident or collision that was the direct and proximate 1559
result of the offender's operation of the vehicle before, 1560
during, or after committing the violation of division (B) of 1561
this section. 1562

(I) (1) No court shall sentence an offender to an alcohol 1563
treatment program under this section unless the treatment 1564
program complies with the minimum standards for alcohol 1565
treatment programs adopted under Chapter 5119. of the Revised 1566
Code by the director of mental health and addiction services. 1567

(2) An offender who stays in a drivers' intervention 1568
program or in an alcohol treatment program under an order issued 1569

under this section shall pay the cost of the stay in the 1570
program. However, if the court determines that an offender who 1571
stays in an alcohol treatment program under an order issued 1572
under this section is unable to pay the cost of the stay in the 1573
program, the court may order that the cost be paid from the 1574
court's indigent drivers' alcohol treatment fund. 1575

(J) If a person whose driver's or commercial driver's 1576
license or permit or nonresident operating privilege is 1577
suspended under this section files an appeal regarding any 1578
aspect of the person's trial or sentence, the appeal itself does 1579
not stay the operation of the suspension. 1580

(K) Division (A) (1) (j) of this section does not apply to a 1581
person who operates a vehicle, streetcar, or trackless trolley 1582
while the person has a concentration of a listed controlled 1583
substance or a listed metabolite of a controlled substance in 1584
the person's whole blood, blood serum or plasma, or urine that 1585
equals or exceeds the amount specified in that division, if both 1586
of the following apply: 1587

(1) The person obtained the controlled substance pursuant 1588
to a prescription issued by a licensed health professional 1589
authorized to prescribe drugs. 1590

(2) The person injected, ingested, or inhaled the 1591
controlled substance in accordance with the health 1592
professional's directions. 1593

(L) The prohibited concentrations of a controlled 1594
substance or a metabolite of a controlled substance listed in 1595
division (A) (1) (j) of this section also apply in a prosecution 1596
of a violation of division (D) of section 2923.16 of the Revised 1597
Code in the same manner as if the offender is being prosecuted 1598

for a prohibited concentration of alcohol. 1599

(M) All terms defined in section 4510.01 of the Revised 1600
Code apply to this section. If the meaning of a term defined in 1601
section 4510.01 of the Revised Code conflicts with the meaning 1602
of the same term as defined in section 4501.01 or 4511.01 of the 1603
Revised Code, the term as defined in section 4510.01 of the 1604
Revised Code applies to this section. 1605

(N) (1) The Ohio Traffic Rules in effect on January 1, 1606
2004, as adopted by the supreme court under authority of section 1607
2937.46 of the Revised Code, do not apply to felony violations 1608
of this section. Subject to division (N) (2) of this section, the 1609
Rules of Criminal Procedure apply to felony violations of this 1610
section. 1611

(2) If, on or after January 1, 2004, the supreme court 1612
modifies the Ohio Traffic Rules to provide procedures to govern 1613
felony violations of this section, the modified rules shall 1614
apply to felony violations of this section. 1615

Section 2. That existing sections 1547.11, 3701.143, and 1616
4511.19 of the Revised Code are hereby repealed. 1617