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Sub. H. B. No. 366

Representative Ghanbari

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

A BILL

To amend sections 177.011, 177.02, 2909.07, 1
2913.01, 2913.02, 2913.30, 2923.31, 2923.32, and 2
5739.17 and to enact sections 177.04, 2913.021,
3 and 2913.08 of the Revised Code to enact the
4 Fight Organized Retail Crime and Empower Law
5 Enforcement (FORCE) Act to create the Organized
6 Retail Theft Advisory Council and an
7 investigative task force, to create the crime of
8 theft of mail, to modify theft offenses and
9 penalties related to retail property. 10

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

Section 1. That sections 177.011, 177.02, 2909.07, 11
2913.01, 2913.02, 2913.30, 2923.31, 2923.32, and 5739.17 be 12
amended and sections 177.04, 2913.021, and 2913.08 of the 13
Revised Code be enacted to read as follows: 14

Sec. 177.011. (A) There is hereby created in the state 15
treasury the organized crime commission fund. The fund shall 16

consist of ~~moneys~~the following: 17

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

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

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

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

(D) The organized crime investigations commission shall 34
use the money described in division (A) (2) of this section 35
exclusively to support the operations of the organized retail 36
theft task force, except that five per cent of the money may be 37
used for the administrative expenses of the organized retail 38
theft advisory council and the operation of the retail theft web 39
portal described in section 177.04 of the Revised Code. 40

Sec. 177.02. ~~(A)~~(A) (1) As used in this section, "cargo 41
theft" means the unlawful taking of any cargo including goods, 42
chattels, money, or baggage that constitutes a commercial 43
shipment of freight moving in any of the following: 44

(a) Commerce; 45

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|---|--|
| <u>(b) A pipeline system;</u> | 46 |
| <u>(c) A railroad car;</u> | 47 |
| <u>(d) A motor truck or other vehicle;</u> | 48 |
| <u>(e) A tank or storage facility;</u> | 49 |
| <u>(f) A station house, platform, or depot;</u> | 50 |
| <u>(g) A vessel or wharf;</u> | 51 |
| <u>(h) An aircraft, airport terminal, airport, aircraft terminal, or air navigation facility;</u> | 52 53 |
| <u>(i) An intermodal container, intermodal chassis, trailer, container freight station, warehouse, freight distribution facility, or freight consolidation facility.</u> | 54 55 56 |
| <u>(2) Any person may file with the organized crime investigations commission a complaint that alleges that organized criminal activity has occurred in a county. A person who files a complaint under this division also may file with the commission information relative to the complaint.</u> | 57 58 59 60 61 |
| (B) <u>(1) Upon the filing of a complaint under division (A) of this section or upon its own initiative, the commission may establish an organized crime task force to investigate organized criminal activity in a single county or in two or more counties if it determines, based upon the complaint filed and the information relative to it or based upon any information that it may have received, that there is reason to believe that organized criminal activity has occurred and continues to occur in that county or in each of those counties. The commission shall not establish an organized crime task force to investigate organized criminal activity in any single county unless it makes the determination required under this division relative to that</u> | 62 63 64 65 66 67 68 69 70 71 72 73 |

county and shall not establish an organized crime task force to 74
investigate organized criminal activity in two or more counties 75
unless it makes the determination required under this division 76
relative to each of those counties. The commission, at any time, 77
may terminate an organized crime task force it has established 78
under this section. 79

(2) An organized retail theft task force is established 80
within the commission to investigate organized retail theft 81
activity, including cargo theft. The task force may investigate 82
based on any complaint filed or information the task force 83
receives that gives reason to believe organized retail theft has 84
occurred and continues to occur in one or more counties. 85

(3) The task force director and members of the organized 86
retail theft task force shall be appointed in the same manner as 87
an organized crime task force under division (C) of this 88
section. In addition to the task force members referenced in 89
that division, the president or chief executive officer of the 90
Ohio council of retail merchants shall be a member of the 91
organized retail theft task force. 92

(C) (1) If the commission establishes an organized crime 93
task force to investigate organized criminal activity in a 94
single county or in two or more counties pursuant to division 95
(B) of this section, the commission initially shall appoint a 96
task force director to directly supervise the investigation. The 97
task force director shall be either the sheriff or a deputy 98
sheriff of any county in the state, the chief law enforcement 99
officer or a member of a law enforcement agency of any municipal 100
corporation or township in the state, or an agent of the bureau 101
of criminal identification and investigation. No person shall be 102
appointed as task force director without the person's consent 103

and, if applicable, the consent of the person's employing 104
sheriff or law enforcement agency or of the superintendent of 105
the bureau of criminal identification and investigation if the 106
person is an employee of the bureau. Upon appointment of a task 107
force director, the commission shall meet with the director and 108
establish the scope and limits of the investigation to be 109
conducted by the task force and the size of the task force 110
investigatory staff to be appointed by the task force director. 111
The commission, at any time, may remove a task force director 112
appointed under this division and may replace any director so 113
removed according to the guidelines for the initial appointment 114
of a director. 115

(2) A task force director appointed under this section 116
shall assemble a task force investigatory staff, of a size 117
determined by the commission and the director, to conduct the 118
investigation. Unless it appears to the commission and the 119
director, based upon the complaint filed and any information 120
relative to it or based upon any information that the commission 121
may have received, that there is reason to believe that the 122
office of the prosecuting attorney of the county or one of the 123
counties served by the task force is implicated in the organized 124
criminal activity to be investigated, one member of the 125
investigatory staff shall be the prosecuting attorney or an 126
assistant prosecuting attorney of the county or one of the 127
counties served by the task force. If a prosecuting attorney or 128
assistant prosecuting attorney is not a participating member of 129
the task force, the office of the attorney general shall provide 130
legal assistance to the task force upon request. Each of the 131
other members of the investigatory staff shall be either the 132
sheriff or a deputy sheriff of any county in the state, the 133
chief law enforcement officer or a member of a law enforcement 134

agency of any municipal corporation or township in the state, or 135
an agent of the bureau of criminal identification and 136
investigation. No person shall be appointed to the investigatory 137
staff without the person's consent and, if applicable, the 138
consent of the person's employing sheriff or law enforcement 139
agency or the superintendent of the bureau of criminal 140
identification and investigation if the person is an employee of 141
the bureau. To the extent possible, the investigatory staff 142
shall be composed of persons familiar with investigatory 143
techniques that generally would be utilized in an investigation 144
of organized criminal activity. To the extent practicable, the 145
investigatory staff shall be assembled in such a manner that 146
numerous law enforcement agencies within the county or the 147
counties served by the task force are represented on the 148
investigatory staff. The investigatory staff shall be assembled 149
in such a manner that at least one sheriff, deputy sheriff, 150
municipal corporation law enforcement officer, or township law 151
enforcement officer from each of the counties served by the task 152
force is represented on the investigatory staff. A task force 153
director, at any time, may remove any member of the 154
investigatory staff the task force director has assembled under 155
this division and may replace any member so removed according to 156
the guidelines for the initial assembly of the investigatory 157
staff. 158

(3) The commission may provide an organized crime task 159
force established under this section with technical and clerical 160
employees and with equipment necessary to efficiently conduct 161
its investigation into organized criminal activity. 162

(4) Upon the establishment of a task force, the commission 163
shall issue to the task force director and each member of the 164
task force investigatory staff appropriate credentials stating 165

the person's identity, position, and authority. 166

(D) (1) A task force investigatory staff, during the period 167
of the investigation for which it is assembled, is responsible 168
only to the task force director and shall operate under the 169
direction and control of the task force director. Any necessary 170
and actual expenses incurred by a task force director or 171
investigatory staff, including any such expenses incurred for 172
food, lodging, or travel, and any other necessary and actual 173
expenses of an investigation into organized criminal activity 174
conducted by a task force, shall be paid by the commission. 175

(2) For purposes of workers' compensation and the 176
allocation of liability for any death, injury, or damage they 177
may cause in the performance of their duties, a task force 178
director and investigatory staff, during the period of the 179
investigation for which the task force is assembled, shall be 180
considered to be employees of the commission and of the state. 181

(3) For purposes of compensation, pension or indemnity 182
fund rights, and other rights and benefits to which they may be 183
entitled, a task force director and investigatory staff, during 184
the period of the performance of their duties as director and 185
investigatory staff, shall be considered to be performing their 186
duties in their normal capacity as prosecuting attorney, 187
assistant prosecuting attorney, sheriff, deputy sheriff, chief 188
law enforcement officer or member of a law enforcement agency of 189
a municipal corporation or township, or agent of the bureau of 190
criminal identification and investigation. 191

(4) The commission may reimburse a political subdivision 192
for any costs incurred under division (D) (3) of this section 193
resulting from the payment of any compensation, rights, or 194
benefits as described in that division from the organized crime 195

commission fund created in section 177.011 of the Revised Code. 196
Reimbursement related to service on an organized crime task 197
force shall derive from the funding described in division (A) (1) 198
of that section. Reimbursement related to service on the 199
organized retail theft task force shall derive from the funding 200
described in division (A) (2) of that section. 201

(E) Except as provided in this division, upon the 202
establishment of a task force, the commission shall provide the 203
prosecuting attorney of each of the counties served by the task 204
force with written notice that the task force has been 205
established to investigate organized criminal activity in that 206
county. Such notice shall not be provided to a prosecuting 207
attorney if it appears to the commission, based upon the 208
complaint filed and any information relative to it or based upon 209
any information that the commission may have received, that 210
there is reason to believe that the office of that prosecuting 211
attorney is implicated in the organized criminal activity to be 212
investigated. 213

(F) The filing of a complaint alleging organized criminal 214
activity, the establishment of an organized crime task force, 215
the appointment of a task force director and the identity of the 216
task force director, the assembly of an investigatory staff and 217
the identity of its members, the conduct of an investigation 218
into organized criminal activity, and the identity of any person 219
who is being or is expected to be investigated by the task force 220
shall be kept confidential by the commission and its director 221
and employees, and by the task force and its director, 222
investigatory staff, and employees until an indictment is 223
returned or a criminal action or proceeding is initiated in a 224
court of proper jurisdiction. 225

(G) For purposes of divisions (C) and (E) of this section, 226
the office of a prosecuting attorney shall be considered as 227
being implicated in organized criminal activity only if the 228
prosecuting attorney, one or more of the prosecuting attorney's 229
assistants, or one or more of the prosecuting attorney's 230
employees has committed or attempted or conspired to commit, is 231
committing or attempting or conspiring to commit, or has engaged 232
in or is engaging in complicity in the commission of, organized 233
criminal activity. 234

Sec. 177.04. (A) The organized retail theft advisory 235
council is created within the office of the attorney general. 236
The council consists of the following members: 237

(1) The attorney general or the attorney general's 238
designee; 239

(2) An assistant attorney general appointed by the 240
attorney general; 241

(3) The president or chief executive officer of the Ohio 242
council of retail merchants; 243

(4) Two loss prevention representatives from retail 244
businesses with more than two hundred fifty employees and two 245
loss prevention representatives from retail businesses with less 246
than two hundred fifty employees; 247

(5) A member of the Ohio prosecuting attorneys 248
association; 249

(6) A member of the Ohio grocers association. 250

(B) The attorney general shall appoint loss prevention 251
representatives to the council after consulting with statewide 252
trade and professional organizations that represent the 253

interests of retail businesses and loss prevention. The 254
organizations may nominate persons to be considered for 255
appointment as council members. 256

(C)(1) The council shall advise the organized crime 257
investigations commission on organized retail theft and 258
recommend actions for the commission to detect, deter, prevent, 259
and prosecute organized retail theft. The council shall meet at 260
least quarterly, and the attorney general or the attorney 261
general's designee shall serve as chairperson. 262

(2) The assistant attorney general appointed to the 263
council shall serve as liaison to the organized retail theft 264
task force established in section 177.02 of the Revised Code. 265

(D) The council shall operate a secure retail theft web 266
portal, compliant with applicable data privacy laws, to share 267
real time crime information and intelligence on organized retail 268
theft between retail businesses and law enforcement agencies to 269
enhance identification of offenders and the targeting of 270
criminal enterprises. The council may utilize, or coordinate 271
operations with, commercially operated retail theft information 272
sharing services. 273

(E) In addition to other duties described in this section, 274
the council may engage in the following activities: 275

(1) Compiling and disseminating to retail businesses and 276
law enforcement agencies innovative methods of detecting, 277
detering, preventing, and prosecuting organized retail theft; 278

(2) Conducting training conferences to educate retail 279
businesses and law enforcement agencies regarding current and 280
emerging crime trends; 281

(3) Consulting with national, state, and local law 282

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| <u>enforcement agencies and retail associations concerning</u> | 283 |
| <u>organized retail theft;</u> | 284 |
| <u>(4) Educating the public on the problems associated with</u> | 285 |
| <u>organized retail theft.</u> | 286 |
| <u>(F) Members of the council shall serve without</u> | 287 |
| <u>compensation but shall be reimbursed for actual and necessary</u> | 288 |
| <u>expenses incurred in performing their official duties. The</u> | 289 |
| <u>organized crime investigations commission may provide the</u> | 290 |
| <u>council with technical and clerical employees as necessary to</u> | 291 |
| <u>accomplish its responsibilities under this section.</u> | 292 |
| Sec. 2909.07. (A) No person shall: | 293 |
| (1) Without privilege to do so, knowingly move, deface, | 294 |
| damage, destroy, or otherwise improperly tamper with either of | 295 |
| the following: | 296 |
| (a) The property of another; | 297 |
| (b) One's own residential real property with the purpose | 298 |
| to decrease the value of or enjoyment of the residential real | 299 |
| property, if both of the following apply: | 300 |
| (i) The residential real property is subject to a | 301 |
| mortgage. | 302 |
| (ii) The person has been served with a summons and | 303 |
| complaint in a pending residential mortgage loan foreclosure | 304 |
| action relating to that real property. As used in this division, | 305 |
| "pending" includes the time between judgment entry and | 306 |
| confirmation of sale. | 307 |
| (2) With purpose to interfere with the use or enjoyment of | 308 |
| property of another, employ a tear gas device, stink bomb, smoke | 309 |
| generator, or other device releasing a substance that is harmful | 310 |

or offensive to persons exposed or that tends to cause public 311
alarm; 312

(3) Without privilege to do so, knowingly move, deface, 313
damage, destroy, or otherwise improperly tamper with a bench 314
mark, triangulation station, boundary marker, or other survey 315
station, monument, or marker; 316

(4) Without privilege to do so, knowingly move, deface, 317
damage, destroy, or otherwise improperly tamper with any safety 318
device, the property of another, or the property of the offender 319
when required or placed for the safety of others, so as to 320
destroy or diminish its effectiveness or availability for its 321
intended purpose; 322

(5) With purpose to interfere with the use or enjoyment of 323
the property of another, set a fire on the land of another or 324
place personal property that has been set on fire on the land of 325
another, which fire or personal property is outside and apart 326
from any building, other structure, or personal property that is 327
on that land; 328

(6) Without privilege to do so, and with intent to impair 329
the functioning of any computer, computer system, computer 330
network, computer software, or computer program, knowingly do 331
any of the following: 332

(a) In any manner or by any means, including, but not 333
limited to, computer hacking, alter, damage, destroy, or modify 334
a computer, computer system, computer network, computer 335
software, or computer program or data contained in a computer, 336
computer system, computer network, computer software, or 337
computer program; 338

(b) Introduce a computer contaminant into a computer, 339

computer system, computer network, computer software, or 340
computer program. 341

(7) Without privilege to do so, knowingly destroy or 342
improperly tamper with a critical infrastructure facility. 343

(B) As used in this section: 344

(1) "Safety device" means any fire extinguisher, fire 345
hose, or fire axe, or any fire escape, emergency exit, or 346
emergency escape equipment, or any life line, life-saving ring, 347
life preserver, or life boat or raft, or any alarm, light, 348
flare, signal, sign, or notice intended to warn of danger or 349
emergency, or intended for other safety purposes, or any guard 350
railing or safety barricade, or any traffic sign or signal, or 351
any railroad grade crossing sign, signal, or gate, or any first 352
aid or survival equipment, or any other device, apparatus, or 353
equipment intended for protecting or preserving the safety of 354
persons or property. 355

(2) "Critical infrastructure facility" has the same 356
meaning as in section 2911.21 of the Revised Code. 357

(3) "Improperly tamper" means to change the physical 358
location or the physical condition of the property. 359

(C) (1) Whoever violates this section is guilty of criminal 360
mischief, and shall be punished as provided in division (C) (2), 361
(3), or (4) of this section. 362

(2) Except as otherwise provided in this division, 363
criminal mischief committed in violation of division (A) (1), 364
(2), (3), (4), or (5) of this section is a misdemeanor of the 365
third degree. Except as otherwise provided in this division, if 366
the violation of division (A) (1), (2), (3), (4), or (5) of this 367
section creates a risk of physical harm to any person, criminal 368

mischief committed in violation of division (A) (1), (2), (3), 369
(4), or (5) of this section is a misdemeanor of the first 370
degree. If the property involved is a retail pump or meter of an 371
electric vehicle charging station, criminal mischief committed 372
in violation of division (A) (1) (a) of this section is a felony 373
of the third degree. If the property involved in the violation 374
of division (A) (1), (2), (3), (4), or (5) of this section is an 375
aircraft, an aircraft engine, propeller, appliance, spare part, 376
fuel, lubricant, hydraulic fluid, any other equipment, 377
implement, or material used or intended to be used in the 378
operation of an aircraft, or any cargo carried or intended to be 379
carried in an aircraft, criminal mischief committed in violation 380
of division (A) (1), (2), (3), (4), or (5) of this section is one 381
of the following: 382

(a) If the violation creates a risk of physical harm to 383
any person, except as otherwise provided in division (C) (2) (b) 384
of this section, criminal mischief committed in violation of 385
division (A) (1), (2), (3), (4), or (5) of this section is a 386
felony of the fifth degree. 387

(b) If the violation creates a substantial risk of 388
physical harm to any person or if the property involved in a 389
violation of this section is an occupied aircraft, criminal 390
mischief committed in violation of division (A) (1), (2), (3), 391
(4), or (5) of this section is a felony of the fourth degree. 392

(3) Except as otherwise provided in this division, 393
criminal mischief committed in violation of division (A) (6) of 394
this section is a misdemeanor of the first degree. Except as 395
otherwise provided in this division, if the value of the 396
computer, computer system, computer network, computer software, 397
computer program, or data involved in the violation of division 398

(A) (6) of this section or the loss to the victim resulting from 399
the violation is one thousand dollars or more and less than ten 400
thousand dollars, or if the computer, computer system, computer 401
network, computer software, computer program, or data involved 402
in the violation of division (A) (6) of this section is used or 403
intended to be used in the operation of an aircraft and the 404
violation creates a risk of physical harm to any person, 405
criminal mischief committed in violation of division (A) (6) of 406
this section is a felony of the fifth degree. If the value of 407
the computer, computer system, computer network, computer 408
software, computer program, or data involved in the violation of 409
division (A) (6) of this section or the loss to the victim 410
resulting from the violation is ten thousand dollars or more, or 411
if the computer, computer system, computer network, computer 412
software, computer program, or data involved in the violation of 413
division (A) (6) of this section is used or intended to be used 414
in the operation of an aircraft and the violation creates a 415
substantial risk of physical harm to any person or the aircraft 416
in question is an occupied aircraft, criminal mischief committed 417
in violation of division (A) (6) of this section is a felony of 418
the fourth degree. 419

(4) Criminal mischief committed in violation of division 420
(A) (7) of this section is a felony of the third degree. 421

Sec. 2913.01. As used in this chapter, unless the context 422
requires that a term be given a different meaning: 423

(A) "Deception" means knowingly deceiving another or 424
causing another to be deceived by any false or misleading 425
representation, by withholding information, by preventing 426
another from acquiring information, or by any other conduct, 427
act, or omission that creates, confirms, or perpetuates a false 428

impression in another, including a false impression as to law, 429
value, state of mind, or other objective or subjective fact. 430

(B) "Defraud" means to knowingly obtain, by deception, 431
some benefit for oneself or another, or to knowingly cause, by 432
deception, some detriment to another. 433

(C) "Deprive" means to do any of the following: 434

(1) Withhold property of another permanently, or for a 435
period that appropriates a substantial portion of its value or 436
use, or with purpose to restore it only upon payment of a reward 437
or other consideration; 438

(2) Dispose of property so as to make it unlikely that the 439
owner will recover it; 440

(3) Accept, use, or appropriate money, property, or 441
services, with purpose not to give proper consideration in 442
return for the money, property, or services, and without 443
reasonable justification or excuse for not giving proper 444
consideration. 445

(D) "Owner" means, unless the context requires a different 446
meaning, any person, other than the actor, who is the owner of, 447
who has possession or control of, or who has any license or 448
interest in property or services, even though the ownership, 449
possession, control, license, or interest is unlawful. 450

(E) "Services" include labor, personal services, 451
professional services, rental services, public utility services 452
including wireless service as defined in division (F) (1) of 453
section 128.01 of the Revised Code, common carrier services, and 454
food, drink, transportation, entertainment, and cable television 455
services and, for purposes of section 2913.04 of the Revised 456
Code, include cable services as defined in that section. 457

(F) "Writing" means any computer software, document, 458
letter, memorandum, note, paper, plate, data, film, or other 459
thing having in or upon it any written, typewritten, or printed 460
matter, and any token, stamp, seal, credit card, badge, 461
trademark, label, or other symbol of value, right, privilege, 462
license, or identification. 463

(G) "Forge" means to fabricate or create, in whole or in 464
part and by any means, any spurious writing, or to make, 465
execute, alter, complete, reproduce, or otherwise purport to 466
authenticate any writing, when the writing in fact is not 467
authenticated by that conduct. 468

(H) "Utter" means to issue, publish, transfer, use, put or 469
send into circulation, deliver, or display. 470

(I) "Coin machine" means any mechanical or electronic 471
device designed to do both of the following: 472

(1) Receive a coin, bill, or token made for that purpose; 473

(2) In return for the insertion or deposit of a coin, 474
bill, or token, automatically dispense property, provide a 475
service, or grant a license. 476

(J) "Slug" means an object that, by virtue of its size, 477
shape, composition, or other quality, is capable of being 478
inserted or deposited in a coin machine as an improper 479
substitute for a genuine coin, bill, or token made for that 480
purpose. 481

(K) "Theft offense" means any of the following: 482

(1) A violation of section 2911.01, 2911.02, 2911.11, 483
2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 484
2913.041, 2913.05, 2913.06, 2913.08, 2913.11, 2913.21, 2913.31, 485

2913.32, 2913.33, 2913.34, 2913.40, 2913.42, 2913.43, 2913.44, 486
2913.45, 2913.47, 2913.48, former section 2913.47 or 2913.48, or 487
section 2913.51, 2915.05, or 2921.41 of the Revised Code; 488

(2) A violation of an existing or former municipal 489
ordinance or law of this or any other state, or of the United 490
States, substantially equivalent to any section listed in 491
division (K) (1) of this section or a violation of section 492
2913.41, 2913.81, or 2915.06 of the Revised Code as it existed 493
prior to July 1, 1996; 494

(3) An offense under an existing or former municipal 495
ordinance or law of this or any other state, or of the United 496
States, involving robbery, burglary, breaking and entering, 497
theft, embezzlement, wrongful conversion, forgery, 498
counterfeiting, deceit, or fraud; 499

(4) A conspiracy or attempt to commit, or complicity in 500
committing, any offense under division (K) (1), (2), or (3) of 501
this section. 502

(L) "Computer services" includes, but is not limited to, 503
the use of a computer system, computer network, computer 504
program, data that is prepared for computer use, or data that is 505
contained within a computer system or computer network. 506

(M) "Computer" means an electronic device that performs 507
logical, arithmetic, and memory functions by the manipulation of 508
electronic or magnetic impulses. "Computer" includes, but is not 509
limited to, all input, output, processing, storage, computer 510
program, or communication facilities that are connected, or 511
related, in a computer system or network to an electronic device 512
of that nature. 513

(N) "Computer system" means a computer and related 514

devices, whether connected or unconnected, including, but not 515
limited to, data input, output, and storage devices, data 516
communications links, and computer programs and data that make 517
the system capable of performing specified special purpose data 518
processing tasks. 519

(O) "Computer network" means a set of related and remotely 520
connected computers and communication facilities that includes 521
more than one computer system that has the capability to 522
transmit among the connected computers and communication 523
facilities through the use of computer facilities. 524

(P) "Computer program" means an ordered set of data 525
representing coded instructions or statements that, when 526
executed by a computer, cause the computer to process data. 527

(Q) "Computer software" means computer programs, 528
procedures, and other documentation associated with the 529
operation of a computer system. 530

(R) "Data" means a representation of information, 531
knowledge, facts, concepts, or instructions that are being or 532
have been prepared in a formalized manner and that are intended 533
for use in a computer, computer system, or computer network. For 534
purposes of section 2913.47 of the Revised Code, "data" has the 535
additional meaning set forth in division (A) of that section. 536

(S) "Cable television service" means any services provided 537
by or through the facilities of any cable television system or 538
other similar closed circuit coaxial cable communications 539
system, or any microwave or similar transmission service used in 540
connection with any cable television system or other similar 541
closed circuit coaxial cable communications system. 542

(T) "Gain access" means to approach, instruct, communicate 543

with, store data in, retrieve data from, or otherwise make use 544
of any resources of a computer, computer system, or computer 545
network, or any cable service or cable system both as defined in 546
section 2913.04 of the Revised Code. 547

(U) "Credit card" includes, but is not limited to, a card, 548
code, device, or other means of access to a customer's account 549
for the purpose of obtaining money, property, labor, or services 550
on credit, or for initiating an electronic fund transfer at a 551
point-of-sale terminal, an automated teller machine, or a cash 552
dispensing machine. It also includes a county procurement card 553
issued under section 301.29 of the Revised Code. 554

(V) "Electronic fund transfer" has the same meaning as in 555
92 Stat. 3728, 15 U.S.C.A. 1693a, as amended. 556

(W) "Rented property" means personal property in which the 557
right of possession and use of the property is for a short and 558
possibly indeterminate term in return for consideration; the 559
rentee generally controls the duration of possession of the 560
property, within any applicable minimum or maximum term; and the 561
amount of consideration generally is determined by the duration 562
of possession of the property. 563

(X) "Telecommunication" means the origination, emission, 564
dissemination, transmission, or reception of data, images, 565
signals, sounds, or other intelligence or equivalence of 566
intelligence of any nature over any communications system by any 567
method, including, but not limited to, a fiber optic, 568
electronic, magnetic, optical, digital, or analog method. 569

(Y) "Telecommunications device" means any instrument, 570
equipment, machine, or other device that facilitates 571
telecommunication, including, but not limited to, a computer, 572

computer network, computer chip, computer circuit, scanner, 573
telephone, cellular telephone, pager, personal communications 574
device, transponder, receiver, radio, modem, or device that 575
enables the use of a modem. 576

(Z) "Telecommunications service" means the providing, 577
allowing, facilitating, or generating of any form of 578
telecommunication through the use of a telecommunications device 579
over a telecommunications system. 580

(AA) "Counterfeit telecommunications device" means a 581
telecommunications device that, alone or with another 582
telecommunications device, has been altered, constructed, 583
manufactured, or programmed to acquire, intercept, receive, or 584
otherwise facilitate the use of a telecommunications service or 585
information service without the authority or consent of the 586
provider of the telecommunications service or information 587
service. "Counterfeit telecommunications device" includes, but 588
is not limited to, a clone telephone, clone microchip, tumbler 589
telephone, or tumbler microchip; a wireless scanning device 590
capable of acquiring, intercepting, receiving, or otherwise 591
facilitating the use of telecommunications service or 592
information service without immediate detection; or a device, 593
equipment, hardware, or software designed for, or capable of, 594
altering or changing the electronic serial number in a wireless 595
telephone. 596

(BB) (1) "Information service" means, subject to division 597
(BB) (2) of this section, the offering of a capability for 598
generating, acquiring, storing, transforming, processing, 599
retrieving, utilizing, or making available information via 600
telecommunications, including, but not limited to, electronic 601
publishing. 602

(2) "Information service" does not include any use of a 603
capability of a type described in division (BB)(1) of this 604
section for the management, control, or operation of a 605
telecommunications system or the management of a 606
telecommunications service. 607

(CC) "Elderly person" means a person who is sixty-five 608
years of age or older. 609

(DD) "Disabled adult" means a person who is eighteen years 610
of age or older and has some impairment of body or mind that 611
makes the person unable to work at any substantially 612
remunerative employment that the person otherwise would be able 613
to perform and that will, with reasonable probability, continue 614
for a period of at least twelve months without any present 615
indication of recovery from the impairment, or who is eighteen 616
years of age or older and has been certified as permanently and 617
totally disabled by an agency of this state or the United States 618
that has the function of so classifying persons. 619

(EE) "Firearm" and "dangerous ordnance" have the same 620
meanings as in section 2923.11 of the Revised Code. 621

(FF) "Motor vehicle" has the same meaning as in section 622
4501.01 of the Revised Code. 623

(GG) "Dangerous drug" has the same meaning as in section 624
4729.01 of the Revised Code. 625

(HH) "Drug abuse offense" has the same meaning as in 626
section 2925.01 of the Revised Code. 627

(II)(1) "Computer hacking" means any of the following: 628

(a) Gaining access or attempting to gain access to all or 629
part of a computer, computer system, or a computer network 630

without express or implied authorization with the intent to 631
defraud or with intent to commit a crime; 632

(b) Misusing computer or network services including, but 633
not limited to, mail transfer programs, file transfer programs, 634
proxy servers, and web servers by performing functions not 635
authorized by the owner of the computer, computer system, or 636
computer network or other person authorized to give consent. As 637
used in this division, "misuse of computer and network services" 638
includes, but is not limited to, the unauthorized use of any of 639
the following: 640

(i) Mail transfer programs to send mail to persons other 641
than the authorized users of that computer or computer network; 642

(ii) File transfer program proxy services or proxy servers 643
to access other computers, computer systems, or computer 644
networks; 645

(iii) Web servers to redirect users to other web pages or 646
web servers. 647

(c) (i) Subject to division (II) (1) (c) (ii) of this section, 648
using a group of computer programs commonly known as "port 649
scanners" or "probes" to intentionally access any computer, 650
computer system, or computer network without the permission of 651
the owner of the computer, computer system, or computer network 652
or other person authorized to give consent. The group of 653
computer programs referred to in this division includes, but is 654
not limited to, those computer programs that use a computer 655
network to access a computer, computer system, or another 656
computer network to determine any of the following: the presence 657
or types of computers or computer systems on a network; the 658
computer network's facilities and capabilities; the availability 659

of computer or network services; the presence or versions of 660
computer software including, but not limited to, operating 661
systems, computer services, or computer contaminants; the 662
presence of a known computer software deficiency that can be 663
used to gain unauthorized access to a computer, computer system, 664
or computer network; or any other information about a computer, 665
computer system, or computer network not necessary for the 666
normal and lawful operation of the computer initiating the 667
access. 668

(ii) The group of computer programs referred to in 669
division (II) (1) (c) (i) of this section does not include standard 670
computer software used for the normal operation, administration, 671
management, and test of a computer, computer system, or computer 672
network including, but not limited to, domain name services, 673
mail transfer services, and other operating system services, 674
computer programs commonly called "ping," "tcpdump," and 675
"traceroute" and other network monitoring and management 676
computer software, and computer programs commonly known as 677
"nslookup" and "whois" and other systems administration computer 678
software. 679

(d) The intentional use of a computer, computer system, or 680
a computer network in a manner that exceeds any right or 681
permission granted by the owner of the computer, computer 682
system, or computer network or other person authorized to give 683
consent. 684

(2) "Computer hacking" does not include the introduction 685
of a computer contaminant, as defined in section 2909.01 of the 686
Revised Code, into a computer, computer system, computer 687
program, or computer network. 688

(JJ) "Police dog or horse" has the same meaning as in 689

section 2921.321 of the Revised Code. 690

(KK) "Anhydrous ammonia" is a compound formed by the 691
combination of two gaseous elements, nitrogen and hydrogen, in 692
the manner described in this division. Anhydrous ammonia is one 693
part nitrogen to three parts hydrogen (NH₃). Anhydrous ammonia 694
by weight is fourteen parts nitrogen to three parts hydrogen, 695
which is approximately eighty-two per cent nitrogen to eighteen 696
per cent hydrogen. 697

(LL) "Assistance dog" has the same meaning as in section 698
955.011 of the Revised Code. 699

(MM) "Federally licensed firearms dealer" has the same 700
meaning as in section 5502.63 of the Revised Code. 701

(NN) "Active duty service member" means any member of the 702
armed forces of the United States performing active duty under 703
title 10 of the United States Code. 704

Sec. 2913.02. (A) No person, with purpose to deprive the 705
owner of property or services, shall knowingly obtain or exert 706
control over either the property or services in any of the 707
following ways: 708

(1) Without the consent of the owner or person authorized 709
to give consent; 710

(2) Beyond the scope of the express or implied consent of 711
the owner or person authorized to give consent; 712

(3) By deception; 713

(4) By threat; 714

(5) By intimidation. 715

(B) (1) Whoever violates this section is guilty of theft. 716

(2) Except as otherwise provided in this division or 717
division (B) (3), (4), (5), (6), (7), (8), or (9) of this 718
section, a violation of this section is misdemeanor theft, a 719
misdemeanor of the first degree. If the value of the property or 720
services stolen is one thousand dollars or more and is less than 721
seven thousand five hundred dollars or if the property stolen is 722
any of the property listed in section 2913.71 of the Revised 723
Code, a violation of this section is theft, a felony of the 724
fifth degree. If the value of the property or services stolen is 725
seven thousand five hundred dollars or more and is less than one 726
hundred fifty thousand dollars, or if the offender previously 727
has been convicted of or pleaded guilty to a theft offense, a 728
violation of this section is grand theft, a felony of the fourth 729
degree. If the value of the property or services stolen is one 730
hundred fifty thousand dollars or more and is less than seven 731
hundred fifty thousand dollars, or if the offender two or more 732
times previously has been convicted of or pleaded guilty to a 733
theft offense, a violation of this section is aggravated theft, 734
a felony of the third degree. If the value of the property or 735
services is seven hundred fifty thousand dollars or more and is 736
less than one million five hundred thousand dollars, a violation 737
of this section is aggravated theft, a felony of the second 738
degree. If the value of the property or services stolen is one 739
million five hundred thousand dollars or more, a violation of 740
this section is aggravated theft of one million five hundred 741
thousand dollars or more, a felony of the first degree. 742

(3) Except as otherwise provided in division (B) (4), (5), 743
(6), (7), (8), or (9) of this section, if the victim of the 744
offense is an elderly person, disabled adult, active duty 745
service member, or spouse of an active duty service member, a 746
violation of this section is theft from a person in a protected 747

class, and division (B) (3) of this section applies. Except as 748
otherwise provided in this division, theft from a person in a 749
protected class is a felony of the fifth degree. If the value of 750
the property or services stolen is one thousand dollars or more 751
and is less than seven thousand five hundred dollars, or if the 752
offender previously has been convicted of or pleaded guilty to a 753
theft offense, theft from a person in a protected class is a 754
felony of the fourth degree. If the value of the property or 755
services stolen is seven thousand five hundred dollars or more 756
and is less than thirty-seven thousand five hundred dollars, or 757
if the offender two or more times previously has been convicted 758
of or pleaded guilty to a theft offense, theft from a person in 759
a protected class is a felony of the third degree. If the value 760
of the property or services stolen is thirty-seven thousand five 761
hundred dollars or more and is less than one hundred fifty 762
thousand dollars, theft from a person in a protected class is a 763
felony of the second degree. If the value of the property or 764
services stolen is one hundred fifty thousand dollars or more, 765
theft from a person in a protected class is a felony of the 766
first degree. If the victim of the offense is an elderly person, 767
in addition to any other penalty imposed for the offense, the 768
offender shall be required to pay full restitution to the victim 769
and to pay a fine of up to fifty thousand dollars. The clerk of 770
court shall forward all fines collected under division (B) (3) of 771
this section to the county department of job and family services 772
to be used for the reporting and investigation of elder abuse, 773
neglect, and exploitation or for the provision or arrangement of 774
protective services under sections 5101.61 to 5101.71 of the 775
Revised Code. 776

(4) If the property stolen is a firearm or dangerous 777
ordnance, a violation of this section is grand theft. Except as 778

otherwise provided in this division, grand theft when the 779
property stolen is a firearm or dangerous ordnance is a felony 780
of the third degree, and there is a presumption in favor of the 781
court imposing a prison term for the offense. If the firearm or 782
dangerous ordnance was stolen from a federally licensed firearms 783
dealer, grand theft when the property stolen is a firearm or 784
dangerous ordnance is a felony of the first degree. The offender 785
shall serve a prison term imposed for grand theft when the 786
property stolen is a firearm or dangerous ordnance consecutively 787
to any other prison term or mandatory prison term previously or 788
subsequently imposed upon the offender. 789

(5) If the property stolen is a motor vehicle, a violation 790
of this section is grand theft of a motor vehicle, a felony of 791
the fourth degree. 792

(6) If the property stolen is any dangerous drug, a 793
violation of this section is theft of drugs, a felony of the 794
fourth degree, or, if the offender previously has been convicted 795
of a felony drug abuse offense, a felony of the third degree. 796

(7) If the property stolen is a police dog or horse or an 797
assistance dog and the offender knows or should know that the 798
property stolen is a police dog or horse or an assistance dog, a 799
violation of this section is theft of a police dog or horse or 800
an assistance dog, a felony of the third degree. 801

(8) If the property stolen is anhydrous ammonia, a 802
violation of this section is theft of anhydrous ammonia, a 803
felony of the third degree. 804

(9) Except as provided in division (B) (2) of this section 805
with respect to property with a value of seven thousand five 806
hundred dollars or more and division (B) (3) of this section with 807

respect to property with a value of one thousand dollars or 808
more, if the property stolen is a special purpose article as 809
defined in section 4737.04 of the Revised Code or is a bulk 810
merchandise container as defined in section 4737.012 of the 811
Revised Code, a violation of this section is theft of a special 812
purpose article or articles or theft of a bulk merchandise 813
container or containers, a felony of the fifth degree. 814

(10) In addition to the penalties described in division 815
(B) (2) of this section, if the offender committed the violation 816
by causing a motor vehicle to leave the premises of an 817
establishment at which gasoline is offered for retail sale 818
without the offender making full payment for gasoline that was 819
dispensed into the fuel tank of the motor vehicle or into 820
another container, the court may do one of the following: 821

(a) Unless division (B) (10) (b) of this section applies, 822
suspend for not more than six months the offender's driver's 823
license, probationary driver's license, commercial driver's 824
license, temporary instruction permit, or nonresident operating 825
privilege; 826

(b) If the offender's driver's license, probationary 827
driver's license, commercial driver's license, temporary 828
instruction permit, or nonresident operating privilege has 829
previously been suspended pursuant to division (B) (10) (a) of 830
this section, impose a class seven suspension of the offender's 831
license, permit, or privilege from the range specified in 832
division (A) (7) of section 4510.02 of the Revised Code, provided 833
that the suspension shall be for at least six months. 834

(c) The court, in lieu of suspending the offender's 835
driver's or commercial driver's license, probationary driver's 836
license, temporary instruction permit, or nonresident operating 837

privilege pursuant to division (B)(10)(a) or (b) of this 838
section, instead may require the offender to perform community 839
service for a number of hours determined by the court. 840

(11) In addition to the penalties described in division 841
(B)(2) of this section, if the offender committed the violation 842
by stealing rented property or rental services, the court may 843
order that the offender make restitution pursuant to section 844
2929.18 or 2929.28 of the Revised Code. Restitution may include, 845
but is not limited to, the cost of repairing or replacing the 846
stolen property, or the cost of repairing the stolen property 847
and any loss of revenue resulting from deprivation of the 848
property due to theft of rental services that is less than or 849
equal to the actual value of the property at the time it was 850
rented. Evidence of intent to commit theft of rented property or 851
rental services shall be determined pursuant to the provisions 852
of section 2913.72 of the Revised Code. 853

(C) The sentencing court that suspends an offender's 854
license, permit, or nonresident operating privilege under 855
division (B)(10) of this section may grant the offender limited 856
driving privileges during the period of the suspension in 857
accordance with Chapter 4510. of the Revised Code. 858

Sec. 2913.021. (A) As used in this section, "mail" means 859
any letter, card, parcel, or other material, along with its 860
contents, that is received, accepted for delivery, delivered, or 861
left for collection by a postal service, including the United 862
States postal service, a common carrier, or a private delivery 863
service. 864

(B) No person, with purpose to deprive the owner of mail, 865
shall knowingly obtain or exert control over mail in any of the 866
following ways: 867

| | |
|---|-----|
| <u>(1) Without the consent of the owner or person authorized</u> | 868 |
| <u>to give consent;</u> | 869 |
| <u>(2) Beyond the scope of the express or implied consent of</u> | 870 |
| <u>the owner or person authorized to give consent;</u> | 871 |
| <u>(3) By deception;</u> | 872 |
| <u>(4) By threat;</u> | 873 |
| <u>(5) By intimidation.</u> | 874 |
| <u>(C) Whoever violates this section is guilty of theft of</u> | 875 |
| <u>mail, a felony of the fifth degree except as provided in</u> | 876 |
| <u>division (B) (2) of section 2913.02 of the Revised Code with</u> | 877 |
| <u>respect to property with a value of seven thousand five hundred</u> | 878 |
| <u>dollars or more and division (B) (3) of section 2913.02 of the</u> | 879 |
| <u>Revised Code with respect to property with a value of one</u> | 880 |
| <u>thousand dollars or more.</u> | 881 |
| <u>(D) A prosecution for a violation of this section does not</u> | 882 |
| <u>preclude a prosecution of a violation of any other section of</u> | 883 |
| <u>the Revised Code. One or more acts, a series of acts, or a</u> | 884 |
| <u>course of behavior that can be prosecuted under this section or</u> | 885 |
| <u>any other section of the Revised Code may be prosecuted under</u> | 886 |
| <u>this section, the other section of the Revised Code, or both</u> | 887 |
| <u>sections. However, if an offender is convicted of or pleads</u> | 888 |
| <u>guilty to a violation of this section and also is convicted of</u> | 889 |
| <u>or pleads guilty to a violation of section 2913.02 of the</u> | 890 |
| <u>Revised Code based on the same conduct involving the same victim</u> | 891 |
| <u>that was the basis of the violation of this section, the two</u> | 892 |
| <u>offenses are allied offenses of similar import under section</u> | 893 |
| <u>2941.25 of the Revised Code.</u> | 894 |
| <u>Sec. 2913.08. (A) As used in this section:</u> | 895 |

| | |
|---|-----|
| <u>(1) "Enterprise" has the same meaning as in section</u> | 896 |
| <u>2923.31 of the Revised Code.</u> | 897 |
| <u>(2) "Retail property" means any tangible personal property</u> | 898 |
| <u>displayed, held, stored, transported, or offered for sale in or</u> | 899 |
| <u>by a retail establishment, manufacturer, distributor, or an</u> | 900 |
| <u>online marketplace as defined in section 1349.65 of the Revised</u> | 901 |
| <u>Code. "Retail property" includes gift cards as defined in</u> | 902 |
| <u>section 1349.61 of the Revised Code.</u> | 903 |
| <u>(3) "Retail property fence" means an enterprise that</u> | 904 |
| <u>possesses, procures, receives, or conceals retail property that</u> | 905 |
| <u>was represented to the enterprise as being stolen or that the</u> | 906 |
| <u>enterprise knows or believes to be stolen.</u> | 907 |
| <u>(4) "Retail value" means the full retail value of the</u> | 908 |
| <u>retail property, including all applicable taxes and shipping</u> | 909 |
| <u>costs.</u> | 910 |
| <u>(5) "Theft" means conduct that would constitute a</u> | 911 |
| <u>violation of section 2913.02 of the Revised Code.</u> | 912 |
| <u>(B) No person shall knowingly commit theft of retail</u> | 913 |
| <u>property with a retail value of one thousand dollars or more</u> | 914 |
| <u>from a retail establishment, manufacturer, distributor, or cargo</u> | 915 |
| <u>transportation unit for either of the following purposes:</u> | 916 |
| <u>(1) To sell, deliver, or transfer that property to a</u> | 917 |
| <u>retail property fence;</u> | 918 |
| <u>(2) To sell, deliver, transfer, exchange, or return the</u> | 919 |
| <u>retail property for value.</u> | 920 |
| <u>(C) No person employed by, or associated with, an</u> | 921 |
| <u>enterprise shall receive, purchase, or possess retail property</u> | 922 |
| <u>with a retail value of one thousand dollars or more if the</u> | 923 |

person knows, believes, or has reasonable cause to believe that 924
the property has been obtained by theft. 925

(D) No person shall knowingly act as an agent of an 926
enterprise to steal retail property with a retail value of one 927
thousand dollars or more from a retail establishment, 928
manufacturer, distributor, or cargo transportation unit as part 929
of an organized plan to commit theft. 930

(E) No person shall knowingly recruit, coordinate, 931
organize, supervise, direct, manage, or finance an enterprise to 932
undertake any of the acts described in division (B), (C), or (D) 933
of this section. 934

(F) Whoever violates this section is guilty of organized 935
theft of retail property. If the retail value is less than seven 936
hundred fifty thousand dollars, organized theft of retail 937
property is a felony of the third degree. If the retail value is 938
seven hundred fifty thousand dollars or more but less than one 939
million five hundred thousand dollars, organized theft of retail 940
property is a felony of the second degree. If the retail value 941
is one million five hundred thousand dollars or more, organized 942
theft of retail property is a felony of the first degree. If 943
organized theft of retail property is a felony of the third 944
degree under this division and if the offender previously has 945
been convicted of or pleaded guilty to a theft offense, there is 946
a presumption of a prison term for the offense. If organized 947
theft of retail property is a felony of the third degree under 948
this division and if the offender two or more times previously 949
has been convicted of or pleaded guilty to a theft offense, the 950
court shall impose as a mandatory prison term one of the prison 951
terms prescribed for a felony of the third degree. 952

(G) In determining whether the retail value of retail 953

property equals or exceeds one thousand dollars, the value of 954
all retail property stolen from the retail establishment or 955
retail establishments by the same person or persons within any 956
twelve-month period shall be aggregated. 957

(H) A prosecution for a violation of this section does not 958
preclude a prosecution for a violation of section 2913.02, 959
2913.51, or 2913.32 of the Revised Code based on the same 960
conduct. However, if an offender is convicted of or pleads 961
guilty to a violation of this section and is also convicted of 962
or pleads guilty to a violation of section 2913.02, 2913.51, or 963
2913.32 of the Revised Code based on the same conduct that was 964
the basis of the violation of this section, the two or more 965
offenses are allied offenses of similar import under section 966
2941.25 of the Revised Code. 967

Sec. 2913.30. (A) As used in this section: 968

(1) "Access device" means any debit or credit card 969
representing a monetary security or retail amount by any 970
financial institution, including a bank, savings bank, savings 971
and loan association, credit union, or business entity. "Access 972
device" includes a gift card as defined in section 1349.61 of 973
the Revised Code. 974

(2) "Obligation or other security" means an instrument 975
recognized as currency or legal tender or that is issued by the 976
United States treasury, including bills, coins, bonds, or 977
checks. 978

(3) "Encoding machine" means an electronic device that is 979
used to encode information onto an access device. 980

(4) "Merchant" means an owner or operator of a retail 981
establishment or an agent, employee, lessee, consignee, officer, 982

director, franchisee, or independent contractor of the owner or 983
operator. 984

(5) "Scanning device" means a scanner, reader, wireless 985
access device, radio frequency identification scanner, an 986
electronic device that utilizes near field communication 987
technology, or any other electronic device that is used to 988
access, read, scan, obtain, memorize, or store, temporarily or 989
permanently, information encoded on an access device. 990

(B) No person, with purpose to defraud or knowing that the 991
person is facilitating a fraud, shall do any of the following: 992

(1) Falsely make, forge, counterfeit, or alter any 993
obligation or other security of the United States; 994

(2) Pass, utter, sell, purchase, conceal, or transfer any 995
counterfeit obligation or other security of the United States; 996

(3) Possess with the purpose to utter any obligation or 997
other security of the United States, knowing that the obligation 998
or other security has been counterfeited; 999

(4) Without authorization of the issuer, falsely make, 1000
forge, counterfeit, alter, or knowingly possess any access 1001
device-; 1002

(5) Directly or indirectly use a scanning device to 1003
access, read, obtain, memorize, or store, temporarily or 1004
permanently, information encoded on an access device without the 1005
permission of the authorized user of the access device, the 1006
financial institution issuing the authorized user's access 1007
device, or a merchant; 1008

(6) Directly or indirectly use an encoding machine to 1009
place information encoded on an access device onto a different 1010

access device without the permission of the authorized user of 1011
the access device from which the information was obtained, the 1012
financial institution issuing the authorized user's access 1013
device, or a merchant. 1014

(C) Whoever violates this section is guilty of 1015
counterfeiting. Except as otherwise provided in this division, 1016
counterfeiting is a felony of the fourth degree, and in 1017
addition, the court shall impose on the offender a fine from the 1018
range of fines for a felony of the fourth degree that is not 1019
less than five hundred dollars. 1020

(1) If the value of the counterfeited obligations or other 1021
securities or access devices is five thousand dollars or more 1022
and is less than one hundred thousand dollars, or if the offense 1023
involves five or more access devices, counterfeiting is a felony 1024
of the third degree. 1025

(2) If the value of the counterfeited obligations or other 1026
securities or access devices is one hundred thousand dollars or 1027
more and is less than one million dollars, counterfeiting is a 1028
felony of the second degree. 1029

(3) If the value of the counterfeited obligations or other 1030
securities or access devices is one million dollars or more, 1031
counterfeiting is a felony of the first degree. 1032

(D) A prosecution for a violation of this section does not 1033
preclude a prosecution for a violation of section 2913.02, 1034
2913.31, or 2913.32 of the Revised Code based on the same 1035
conduct. However, if an offender is convicted of or pleads 1036
guilty to a violation of this section and is also convicted of 1037
or pleads guilty to a violation of section 2913.02, 2913.31, or 1038
2913.32 of the Revised Code based on the same conduct involving 1039

the same victim that was the basis of the violation of this 1040
section, the two or more offenses are allied offenses of similar 1041
import under section 2941.25 of the Revised Code. 1042

Sec. 2923.31. As used in sections 2923.31 to 2923.36 of 1043
the Revised Code: 1044

(A) "Beneficial interest" means any of the following: 1045

(1) The interest of a person as a beneficiary under a 1046
trust in which the trustee holds title to personal or real 1047
property; 1048

(2) The interest of a person as a beneficiary under any 1049
other trust arrangement under which any other person holds title 1050
to personal or real property for the benefit of such person; 1051

(3) The interest of a person under any other form of 1052
express fiduciary arrangement under which any other person holds 1053
title to personal or real property for the benefit of such 1054
person. 1055

"Beneficial interest" does not include the interest of a 1056
stockholder in a corporation or the interest of a partner in 1057
either a general or limited partnership. 1058

(B) "Costs of investigation and prosecution" and "costs of 1059
investigation and litigation" mean all of the costs incurred by 1060
the state or a county or municipal corporation under sections 1061
2923.31 to 2923.36 of the Revised Code in the prosecution and 1062
investigation of any criminal action or in the litigation and 1063
investigation of any civil action, and includes, but is not 1064
limited to, the costs of resources and personnel. 1065

(C) "Enterprise" includes any individual, sole 1066
proprietorship, partnership, limited partnership, corporation, 1067

trust, union, government agency, or other legal entity, or any 1068
organization, association, or group of persons associated in 1069
fact although not a legal entity. "Enterprise" includes illicit 1070
as well as licit enterprises. 1071

(D) "Innocent person" includes any bona fide purchaser of 1072
property that is allegedly involved in a violation of section 1073
2923.32 of the Revised Code, including any person who 1074
establishes a valid claim to or interest in the property in 1075
accordance with division (E) of section 2981.04 of the Revised 1076
Code, and any victim of an alleged violation of that section or 1077
of any underlying offense involved in an alleged violation of 1078
that section. 1079

(E) "Pattern of corrupt activity" means two or more 1080
incidents of corrupt activity, whether or not there has been a 1081
prior conviction, that are related to the affairs of the same 1082
enterprise, are not isolated, and are not so closely related to 1083
each other and connected in time and place that they constitute 1084
a single event. 1085

At least one of the incidents forming the pattern shall 1086
occur on or after January 1, 1986. Unless any incident was an 1087
aggravated murder or murder, the last of the incidents forming 1088
the pattern shall occur within six years after the commission of 1089
any prior incident forming the pattern, excluding any period of 1090
imprisonment served by any person engaging in the corrupt 1091
activity. 1092

For the purposes of the criminal penalties that may be 1093
imposed pursuant to section 2923.32 of the Revised Code, at 1094
least one of the incidents forming the pattern shall constitute 1095
a felony under the laws of this state in existence at the time 1096
it was committed or, if committed in violation of the laws of 1097

the United States or of any other state, shall constitute a 1098
felony under the law of the United States or the other state and 1099
would be a criminal offense under the law of this state if 1100
committed in this state. 1101

(F) "Pecuniary value" means money, a negotiable 1102
instrument, a commercial interest, or anything of value, as 1103
defined in section 1.03 of the Revised Code, or any other 1104
property or service that has a value in excess of one hundred 1105
dollars. 1106

(G) "Person" means any person, as defined in section 1.59 1107
of the Revised Code, and any governmental officer, employee, or 1108
entity. 1109

(H) "Personal property" means any personal property, any 1110
interest in personal property, or any right, including, but not 1111
limited to, bank accounts, debts, corporate stocks, patents, or 1112
copyrights. Personal property and any beneficial interest in 1113
personal property are deemed to be located where the trustee of 1114
the property, the personal property, or the instrument 1115
evidencing the right is located. 1116

(I) "Corrupt activity" means engaging in, attempting to 1117
engage in, conspiring to engage in, or soliciting, coercing, or 1118
intimidating another person to engage in any of the following: 1119

(1) Conduct defined as "racketeering activity" under the 1120
"Organized Crime Control Act of 1970," 84 Stat. 941, 18 U.S.C. 1121
1961(1)(B), (1)(C), (1)(D), and (1)(E), as amended; 1122

(2) Conduct constituting any of the following: 1123

(a) A violation of section 1315.55, 1322.07, 2903.01, 1124
2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2905.01, 2905.02, 1125
2905.11, 2905.22, 2905.32 as specified in division (I)(2)(g) of 1126

this section, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 1127
2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 1128
2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2913.05, 1129
2913.06, 2913.30, 2921.02, 2921.03, 2921.04, 2921.11, 2921.12, 1130
2921.32, 2921.41, 2921.42, 2921.43, 2923.12, or 2923.17; 1131
division (F) (1) (a), (b), or (c) of section 1315.53; division (A) 1132
(1) or (2) of section 1707.042; division (B), (C) (4), (D), (E), 1133
or (F) of section 1707.44; division (A) (1) or (2) of section 1134
2923.20; division (E) or (G) of section 3772.99; division (J) (1) 1135
of section 4712.02; section 4719.02, 4719.05, or 4719.06; 1136
division (C), (D), or (E) of section 4719.07; section 4719.08; 1137
or division (A) of section 4719.09 of the Revised Code. 1138

(b) Any violation of section 3769.11, 3769.15, 3769.16, or 1139
3769.19 of the Revised Code as it existed prior to July 1, 1996, 1140
any violation of section 2915.02 of the Revised Code that occurs 1141
on or after July 1, 1996, and that, had it occurred prior to 1142
that date, would have been a violation of section 3769.11 of the 1143
Revised Code as it existed prior to that date, or any violation 1144
of section 2915.05 of the Revised Code that occurs on or after 1145
July 1, 1996, and that, had it occurred prior to that date, 1146
would have been a violation of section 3769.15, 3769.16, or 1147
3769.19 of the Revised Code as it existed prior to that date. 1148

(c) Any violation of section 2907.21, 2907.22, 2907.31, 1149
2913.02, 2913.11, 2913.21, 2913.31, 2913.32, 2913.34, 2913.42, 1150
2913.47, 2913.51, 2915.03, 2925.03, 2925.04, 2925.05, or 2925.37 1151
of the Revised Code, any violation of section 2925.11 of the 1152
Revised Code that is a felony of the first, second, third, or 1153
fourth degree and that occurs on or after July 1, 1996, any 1154
violation of section 2915.02 of the Revised Code that occurred 1155
prior to July 1, 1996, any violation of section 2915.02 of the 1156
Revised Code that occurs on or after July 1, 1996, and that, had 1157

it occurred prior to that date, would not have been a violation 1158
of section 3769.11 of the Revised Code as it existed prior to 1159
that date, any violation of section 2915.06 of the Revised Code 1160
as it existed prior to July 1, 1996, or any violation of 1161
division (B) of section 2915.05 of the Revised Code as it exists 1162
on and after July 1, 1996, when the proceeds of the violation, 1163
the payments made in the violation, the amount of a claim for 1164
payment or for any other benefit that is false or deceptive and 1165
that is involved in the violation, or the value of the 1166
contraband or other property illegally possessed, sold, or 1167
purchased in the violation exceeds one thousand dollars, or any 1168
combination of violations described in division (I) (2) (c) of 1169
this section when the total proceeds of the combination of 1170
violations, payments made in the combination of violations, 1171
amount of the claims for payment or for other benefits that is 1172
false or deceptive and that is involved in the combination of 1173
violations, or value of the contraband or other property 1174
illegally possessed, sold, or purchased in the combination of 1175
violations exceeds one thousand dollars; 1176

(d) Any violation of section 5743.112 of the Revised Code 1177
when the amount of unpaid tax exceeds one hundred dollars; 1178

(e) Any violation or combination of violations of section 1179
2907.32 of the Revised Code involving any material or 1180
performance containing a display of bestiality or of sexual 1181
conduct, as defined in section 2907.01 of the Revised Code, that 1182
is explicit and depicted with clearly visible penetration of the 1183
genitals or clearly visible penetration by the penis of any 1184
orifice when the total proceeds of the violation or combination 1185
of violations, the payments made in the violation or combination 1186
of violations, or the value of the contraband or other property 1187
illegally possessed, sold, or purchased in the violation or 1188

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| combination of violations exceeds one thousand dollars; | 1189 |
| (f) Any combination of violations described in division | 1190 |
| (I) (2) (c) of this section and violations of section 2907.32 of | 1191 |
| the Revised Code involving any material or performance | 1192 |
| containing a display of bestiality or of sexual conduct, as | 1193 |
| defined in section 2907.01 of the Revised Code, that is explicit | 1194 |
| and depicted with clearly visible penetration of the genitals or | 1195 |
| clearly visible penetration by the penis of any orifice when the | 1196 |
| total proceeds of the combination of violations, payments made | 1197 |
| in the combination of violations, amount of the claims for | 1198 |
| payment or for other benefits that is false or deceptive and | 1199 |
| that is involved in the combination of violations, or value of | 1200 |
| the contraband or other property illegally possessed, sold, or | 1201 |
| purchased in the combination of violations exceeds one thousand | 1202 |
| dollars; | 1203 |
| (g) Any violation of section 2905.32 of the Revised Code | 1204 |
| to the extent the violation is not based solely on the same | 1205 |
| conduct that constitutes corrupt activity pursuant to division | 1206 |
| (I) (2) (c) of this section due to the conduct being in violation | 1207 |
| of section 2907.21 of the Revised Code. | 1208 |
| (3) Conduct constituting a violation of any law of any | 1209 |
| state other than this state that is substantially similar to the | 1210 |
| conduct described in division (I) (2) of this section, provided | 1211 |
| the defendant was convicted of the conduct in a criminal | 1212 |
| proceeding in the other state; | 1213 |
| (4) Animal or ecological terrorism; | 1214 |
| (5) (a) Conduct constituting any of the following: | 1215 |
| (i) Organized retail theft; | 1216 |
| (ii) Conduct that constitutes one or more violations of | 1217 |

~~any law of any state other than this state, that is~~ 1218
~~substantially similar to organized retail theft, and that if~~ 1219
~~committed in this state would be organized retail theft, if the~~ 1220
~~defendant was convicted of or pleaded guilty to the conduct in a~~ 1221
~~criminal proceeding in the other state.~~ 1222

(b) By enacting division (I) (5) (a) of this section, it is 1223
the intent of the general assembly to add organized retail theft 1224
~~and the conduct described in division (I) (5) (a) (ii) of this~~ 1225
~~section~~ as conduct constituting corrupt activity. The enactment 1226
of division (I) (5) (a) of this section and the addition by 1227
division (I) (5) (a) of this section of organized retail theft ~~and~~ 1228
~~the conduct described in division (I) (5) (a) (ii) of this section~~ 1229
as conduct constituting corrupt activity does not limit or 1230
preclude, and shall not be construed as limiting or precluding, 1231
any prosecution for a violation of section 2923.32 of the 1232
Revised Code that is based on one or more violations of section 1233
2913.02 or 2913.51 of the Revised Code, one or more similar 1234
offenses under the laws of this state or any other state, or any 1235
combination of any of those violations or similar offenses, even 1236
though the conduct constituting the basis for those violations 1237
or offenses could be construed as also constituting organized 1238
retail theft ~~or conduct of the type described in division (I) (5)~~ 1239
~~(a) (ii) of this section.~~ 1240

(J) "Real property" means any real property or any 1241
interest in real property, including, but not limited to, any 1242
lease of, or mortgage upon, real property. Real property and any 1243
beneficial interest in it is deemed to be located where the real 1244
property is located. 1245

(K) "Trustee" means any of the following: 1246

(1) Any person acting as trustee under a trust in which 1247

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| the trustee holds title to personal or real property; | 1248 |
| (2) Any person who holds title to personal or real | 1249 |
| property for which any other person has a beneficial interest; | 1250 |
| (3) Any successor trustee. | 1251 |
| "Trustee" does not include an assignee or trustee for an | 1252 |
| insolvent debtor or an executor, administrator, administrator | 1253 |
| with the will annexed, testamentary trustee, guardian, or | 1254 |
| committee, appointed by, under the control of, or accountable to | 1255 |
| a court. | 1256 |
| (L) "Unlawful debt" means any money or other thing of | 1257 |
| value constituting principal or interest of a debt that is | 1258 |
| legally unenforceable in this state in whole or in part because | 1259 |
| the debt was incurred or contracted in violation of any federal | 1260 |
| or state law relating to the business of gambling activity or | 1261 |
| relating to the business of lending money at an usurious rate | 1262 |
| unless the creditor proves, by a preponderance of the evidence, | 1263 |
| that the usurious rate was not intentionally set and that it | 1264 |
| resulted from a good faith error by the creditor, | 1265 |
| notwithstanding the maintenance of procedures that were adopted | 1266 |
| by the creditor to avoid an error of that nature. | 1267 |
| (M) "Animal activity" means any activity that involves the | 1268 |
| use of animals or animal parts, including, but not limited to, | 1269 |
| hunting, fishing, trapping, traveling, camping, the production, | 1270 |
| preparation, or processing of food or food products, clothing or | 1271 |
| garment manufacturing, medical research, other research, | 1272 |
| entertainment, recreation, agriculture, biotechnology, or | 1273 |
| service activity that involves the use of animals or animal | 1274 |
| parts. | 1275 |
| (N) "Animal facility" means a vehicle, building, | 1276 |

structure, nature preserve, or other premises in which an animal 1277
is lawfully kept, handled, housed, exhibited, bred, or offered 1278
for sale, including, but not limited to, a zoo, rodeo, circus, 1279
amusement park, hunting preserve, or premises in which a horse 1280
or dog event is held. 1281

(O) "Animal or ecological terrorism" means the commission 1282
of any felony that involves causing or creating a substantial 1283
risk of physical harm to any property of another, the use of a 1284
deadly weapon or dangerous ordnance, or purposely, knowingly, or 1285
recklessly causing serious physical harm to property and that 1286
involves an intent to obstruct, impede, or deter any person from 1287
participating in a lawful animal activity, from mining, 1288
forestry, harvesting, gathering, or processing natural 1289
resources, or from being lawfully present in or on an animal 1290
facility or research facility. 1291

(P) "Research facility" means a place, laboratory, 1292
institution, medical care facility, government facility, or 1293
public or private educational institution in which a scientific 1294
test, experiment, or investigation involving the use of animals 1295
or other living organisms is lawfully carried out, conducted, or 1296
attempted. 1297

(Q) "Organized retail theft" means ~~the theft of retail~~ 1298
~~property with a retail value of one thousand dollars or more~~ 1299
~~from one or more retail establishments with the intent to sell,~~ 1300
~~deliver, or transfer that property to a retail property~~ 1301
fence conduct constituting a violation of section 2913.08 of the 1302
Revised Code or conduct that constitutes a violation of any law 1303
of any state other than this state that is substantially similar 1304
to section 2913.08 of the Revised Code, provided the defendant 1305
was convicted of or pleaded guilty to the conduct in a criminal 1306

proceeding in the other state. 1307

~~(R) "Retail property" means any tangible personal property displayed, held, stored, or offered for sale in or by a retail establishment.~~ 1308
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~~(S) "Retail property fence" means a person who possesses, procures, receives, or conceals retail property that was represented to the person as being stolen or that the person knows or believes to be stolen.~~ 1311
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~~(T) "Retail value" means the full retail value of the retail property. In determining whether the retail value of retail property equals or exceeds one thousand dollars, the value of all retail property stolen from the retail establishment or retail establishments by the same person or persons within any one hundred eighty day period shall be aggregated.~~ 1315
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Sec. 2923.32. (A) (1) No person employed by, or associated with, any enterprise shall conduct or participate in, directly or indirectly, the affairs of the enterprise through a pattern of corrupt activity or the collection of an unlawful debt. 1322
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(2) No person, through a pattern of corrupt activity or the collection of an unlawful debt, shall acquire or maintain, directly or indirectly, any interest in, or control of, any enterprise or real property. 1326
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(3) No person, who knowingly has received any proceeds derived, directly or indirectly, from a pattern of corrupt activity or the collection of any unlawful debt, shall use or invest, directly or indirectly, any part of those proceeds, or any proceeds derived from the use or investment of any of those proceeds, in the acquisition of any title to, or any right, 1330
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interest, or equity in, real property or in the establishment or 1336
operation of any enterprise. 1337

A purchase of securities on the open market with intent to 1338
make an investment, without intent to control or participate in 1339
the control of the issuer, and without intent to assist another 1340
to do so is not a violation of this division, if the securities 1341
of the issuer held after the purchase by the purchaser, the 1342
members of the purchaser's immediate family, and the purchaser's 1343
or the immediate family members' accomplices in any pattern of 1344
corrupt activity or the collection of an unlawful debt do not 1345
aggregate one per cent of the outstanding securities of any one 1346
class of the issuer and do not confer, in law or in fact, the 1347
power to elect one or more directors of the issuer. 1348

(B) (1) Whoever violates this section is guilty of engaging 1349
in a pattern of corrupt activity. Except as otherwise provided 1350
in this division, engaging in corrupt activity is a felony of 1351
the second degree. Except as otherwise provided in this 1352
division, if at least one of the incidents of corrupt activity 1353
is a felony of the first, second, or third degree, aggravated 1354
murder, or murder, if at least one of the incidents was a felony 1355
under the law of this state that was committed prior to July 1, 1356
1996, and that would constitute a felony of the first, second, 1357
or third degree, aggravated murder, or murder if committed on or 1358
after July 1, 1996, or if at least one of the incidents of 1359
corrupt activity is a felony under the law of the United States 1360
or of another state that, if committed in this state on or after 1361
July 1, 1996, would constitute a felony of the first, second, or 1362
third degree, aggravated murder, or murder under the law of this 1363
state, engaging in a pattern of corrupt activity is a felony of 1364
the first degree. If the offender also is convicted of or pleads 1365
guilty to a specification as described in section 2941.1422 of 1366

the Revised Code that was included in the indictment, count in 1367
the indictment, or information charging the offense, engaging in 1368
a pattern of corrupt activity is a felony of the first degree, 1369
and the court shall sentence the offender to a mandatory prison 1370
term as provided in division (B) (7) of section 2929.14 of the 1371
Revised Code and shall order the offender to make restitution as 1372
provided in division (B) (8) of section 2929.18 of the Revised 1373
Code. Notwithstanding any other provision of law, a person may 1374
be convicted of violating the provisions of this section as well 1375
as of a conspiracy to violate one or more of those provisions 1376
under section 2923.01 of the Revised Code. 1377

(2) Notwithstanding the financial sanctions authorized by 1378
section 2929.18 of the Revised Code, the court may do all of the 1379
following with respect to any person who derives pecuniary value 1380
or causes property damage, personal injury other than pain and 1381
suffering, or other loss through or by the violation of this 1382
section: 1383

(a) In lieu of the fine authorized by that section, impose 1384
a fine not exceeding the greater of three times the gross value 1385
gained or three times the gross loss caused and order the clerk 1386
of the court to pay the fine into the state treasury to the 1387
credit of the corrupt activity investigation and prosecution 1388
fund, which is hereby created; 1389

(b) In addition to the fine described in division (B) (2) 1390
(a) of this section and the financial sanctions authorized by 1391
section 2929.18 of the Revised Code, order the person to pay 1392
court costs; 1393

(c) In addition to the fine described in division (B) (2) 1394
(a) of this section and the financial sanctions authorized by 1395
section 2929.18 of the Revised Code, order the person to pay to 1396

the state, municipal, or county law enforcement agencies that 1397
handled the investigation and prosecution the costs of 1398
investigation and prosecution that are reasonably incurred. 1399

The court shall hold a hearing to determine the amount of 1400
fine, court costs, and other costs to be imposed under this 1401
division. 1402

(3) In addition to any other penalty or disposition 1403
authorized or required by law, the court shall order any person 1404
who is convicted of or pleads guilty to a violation of this 1405
section or who is adjudicated delinquent by reason of a 1406
violation of this section to criminally forfeit to the state 1407
under Chapter 2981. of the Revised Code any personal or real 1408
property in which the person has an interest and that was used 1409
in the course of or intended for use in the course of a 1410
violation of this section, or that was derived from or realized 1411
through conduct in violation of this section, including any 1412
property constituting an interest in, means of control over, or 1413
influence over the enterprise involved in the violation and any 1414
property constituting proceeds derived from the violation, 1415
including all of the following: 1416

(a) Any position, office, appointment, tenure, commission, 1417
or employment contract of any kind acquired or maintained by the 1418
person in violation of this section, through which the person, 1419
in violation of this section, conducted or participated in the 1420
conduct of an enterprise, or that afforded the person a source 1421
of influence or control over an enterprise that the person 1422
exercised in violation of this section; 1423

(b) Any compensation, right, or benefit derived from a 1424
position, office, appointment, tenure, commission, or employment 1425
contract described in division (B) (3) (a) of this section that 1426

accrued to the person in violation of this section during the 1427
period of the pattern of corrupt activity; 1428

(c) Any interest in, security of, claim against, or 1429
property or contractual right affording the person a source of 1430
influence or control over the affairs of an enterprise that the 1431
person exercised in violation of this section; 1432

(d) Any amount payable or paid under any contract for 1433
goods or services that was awarded or performed in violation of 1434
this section. 1435

(C) If a pattern of corrupt activity involves one or more 1436
incidents of organized retail theft, the retail establishment, 1437
manufacturer, distributor, cargo transportation unit, online 1438
marketplace, or group of those entities whose retail property is 1439
alleged to have been stolen may contact the prosecuting attorney 1440
and request that the charge be aggregated with other thefts of 1441
retail property about which the retail establishment or group of 1442
establishments is aware. If the prosecuting attorney declines 1443
the request, the prosecuting attorney shall promptly inform the 1444
retail establishment or group of establishments and provide the 1445
basis for the prosecuting attorney's decision. 1446

In determining whether the retail value of stolen retail 1447
property equals or exceeds one thousand dollars, the value of 1448
all retail property stolen from the retail establishment or 1449
group of establishments by the same person or persons within any 1450
twelve-month period shall be aggregated. 1451

Sec. 5739.17. (A) No person shall engage in making retail 1452
sales subject to a tax imposed by or pursuant to section 1453
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code as 1454
a business without having a license therefor, except as 1455

otherwise provided in divisions (A) (1), (2), and (3) of this section. 1456
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(1) In the dissolution of a partnership by death, the surviving partner may operate under the license of the partnership for a period of sixty days. 1458
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(2) The heirs or legal representatives of deceased persons, and receivers and trustees in bankruptcy, appointed by any competent authority, may operate under the license of the person so succeeded in possession. 1461
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(3) Two or more persons who are not partners may operate a single place of business under one license. In such case neither the retirement of any such person from business at that place of business, nor the entrance of any person, under an existing arrangement, shall affect the license or require the issuance of a new license, unless the person retiring from the business is the individual named on the vendor's license. 1465
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Except as otherwise provided in this section, each applicant for a license shall make out and deliver to the county auditor of each county in which the applicant desires to engage in business, upon a blank to be furnished by such auditor for that purpose, a statement showing the name of the applicant, each place of business in the county where the applicant will make retail sales, the nature of the business, and any other information the tax commissioner reasonably prescribes in the form of a statement prescribed by the commissioner. 1472
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At the time of making the application, the applicant shall pay into the county treasury a license fee in the sum of ~~twenty-five~~ five-fifty dollars for each fixed place of business in the county that will be the situs of retail sales. Upon receipt of 1481
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the application and exhibition of the county treasurer's 1485
receipt, showing the payment of the license fee, the county 1486
auditor shall issue to the applicant a license for each fixed 1487
place of business designated in the application, authorizing the 1488
applicant to engage in business at that location. The county 1489
auditor shall transmit twenty-five dollars of each license fee 1490
to the treasurer of state for deposit into the state treasury to 1491
the credit of the organized crime commission fund for the 1492
purposes specified in section 177.011 of the Revised Code. The 1493
remaining twenty-five dollars of each license fee shall be 1494
credited to the general fund of the county. 1495

(B) If a vendor's identity changes, the vendor shall apply 1496
for a new license. If a vendor wishes to move an existing fixed 1497
place of business to a new location within the same county, the 1498
vendor shall obtain a new vendor's license or submit a request 1499
to the commissioner to transfer the existing vendor's license to 1500
the new location. When the new location has been verified as 1501
being within the same county, the commissioner shall authorize 1502
the transfer and notify the county auditor of the change of 1503
location. If a vendor wishes to move an existing fixed place of 1504
business to another county, the vendor's license shall not 1505
transfer and the vendor shall obtain a new vendor's license from 1506
the county in which the business is to be located. The form of 1507
the license shall be prescribed by the commissioner. The fees 1508
collected shall be credited ~~to the general fund of the county~~as 1509
specified in division (A) (3) of this section. If a vendor fails 1510
to notify the commissioner of a change of location of its fixed 1511
place of business or that its business has closed, the 1512
commissioner may cancel the vendor's license if ordinary mail 1513
sent to the location shown on the license is returned because of 1514
an undeliverable address. 1515

(C) The commissioner may establish or participate in a 1516
registration system whereby any vendor may obtain a vendor's 1517
license by submitting to the commissioner a vendor's license 1518
application and a license fee of ~~twenty-five~~ twenty-five ~~fifty~~ fifty dollars for 1519
each fixed place of business at which the vendor intends to make 1520
retail sales. Under this registration system, the commissioner 1521
shall issue a vendor's license to the applicant on behalf of the 1522
county auditor of the county in which the applicant desires to 1523
engage in business, and shall forward a copy of the application 1524
and license fee to that county. All such Twenty-five dollars of 1525
each license fees-fee received by the commissioner for the 1526
issuance of vendor's licenses shall be deposited into the 1527
vendor's license application fund, which is hereby created in 1528
the state treasury. The remaining twenty-five dollars of each 1529
license fee shall be deposited into the organized crime 1530
commission fund for the purposes specified in section 177.011 of 1531
the Revised Code. The commissioner shall certify to the director 1532
of budget and management within ten business days after the 1533
close of a month the license fees to be transmitted to each 1534
county from the vendor's license application fund for vendor's 1535
license applications received by the commissioner during that 1536
month. License fees transmitted to a county for which payment 1537
was not received by the commissioner may be netted against a 1538
future distribution to that county, including distributions made 1539
pursuant to section 5739.21 of the Revised Code. 1540

A vendor that makes retail sales subject to tax under 1541
Chapter 5739. of the Revised Code pursuant to a permit issued by 1542
the division of liquor control shall obtain a vendor's license 1543
in the identical name and for the identical address as shown on 1544
the permit. 1545

Except as otherwise provided in this section, if a vendor 1546

has no fixed place of business and sells from a vehicle, each 1547
vehicle intended to be used within a county constitutes a place 1548
of business for the purpose of this section. 1549

(D) As used in this section, "transient vendor" means any 1550
person who makes sales of tangible personal property from 1551
vending machines located on land owned by others, who leases 1552
titled motor vehicles, titled watercraft, or titled outboard 1553
motors, who effectuates leases that are taxed according to 1554
division (A)(2) of section 5739.02 of the Revised Code, or who, 1555
in the usual course of the person's business, transports 1556
inventory, stock of goods, or similar tangible personal property 1557
to a temporary place of business or temporary exhibition, show, 1558
fair, flea market, or similar event in a county in which the 1559
person has no fixed place of business, for the purpose of making 1560
retail sales of such property. A "temporary place of business" 1561
means any public or quasi-public place including, but not 1562
limited to, a hotel, rooming house, storeroom, building, part of 1563
a building, tent, vacant lot, railroad car, or motor vehicle 1564
that is temporarily occupied for the purpose of making retail 1565
sales of goods to the public. A place of business is not 1566
temporary if the same person conducted business at the place 1567
continuously for more than six months or occupied the premises 1568
as the person's permanent residence for more than six months, or 1569
if the person intends it to be a fixed place of business. 1570

Any transient vendor, in lieu of obtaining a vendor's 1571
license under division (A) of this section for counties in which 1572
the transient vendor has no fixed place of business, may apply 1573
to the tax commissioner, on a form prescribed by the 1574
commissioner, for a transient vendor's license. The transient 1575
vendor's license authorizes the transient vendor to make retail 1576
sales in any county in which the transient vendor does not 1577

maintain a fixed place of business. Any holder of a transient 1578
vendor's license shall not be required to obtain a separate 1579
vendor's license from the county auditor in that county. Upon 1580
the commissioner's determination that an applicant is a 1581
transient vendor, the applicant shall pay a license fee in the 1582
amount of ~~twenty-five~~ fifty dollars, at which time the tax 1583
commissioner shall issue the license. Twenty-five dollars of 1584
 that license fee shall be deposited into the organized crime 1585
 commission fund for the purposes specified in section 177.011 of 1586
 the Revised Code. The tax commissioner may require a vendor to 1587
be licensed as a transient vendor if, in the opinion of the 1588
commissioner, such licensing is necessary for the efficient 1589
administration of the tax. 1590

Any holder of a valid transient vendor's license may make 1591
retail sales at a temporary place of business or temporary 1592
exhibition, show, fair, flea market, or similar event, held 1593
anywhere in the state without complying with any provision of 1594
section 311.37 of the Revised Code. Any holder of a valid 1595
vendor's license may make retail sales as a transient vendor at 1596
a temporary place of business or temporary exhibition, show, 1597
fair, flea market, or similar event held in any county in which 1598
the vendor maintains a fixed place of business for which the 1599
vendor holds a vendor's license without obtaining a transient 1600
vendor's license. 1601

(E) Any vendor who is issued a license pursuant to this 1602
section shall display the license or a copy of it prominently, 1603
in plain view, at every place of business of the vendor. 1604

(F) No owner, organizer, or promoter who operates a fair, 1605
flea market, show, exhibition, convention, or similar event at 1606
which transient vendors are present shall fail to keep a 1607

comprehensive record of all such vendors, listing the vendor's 1608
name, permanent address, vendor's license number, and the type 1609
of goods sold. Such records shall be kept for four years and 1610
shall be open to inspection by the commissioner. 1611

(G) The commissioner may issue additional types of 1612
licenses if required to efficiently administer the tax imposed 1613
by this chapter. 1614

Section 2. That existing sections 177.011, 177.02, 1615
2909.07, 2913.01, 2913.02, 2913.30, 2923.31, 2923.32, and 1616
5739.17 of the Revised Code are hereby repealed. 1617

Section 3. This act shall be known as the Fight Organized 1618
Retail Crime and Empower Law Enforcement (FORCE) Act. 1619

Section 4. Section 2923.31 of the Revised Code is 1620
presented in this act as a composite of the section as amended 1621
by both H.B. 199 and H.B. 405 of the 132nd General Assembly. The 1622
General Assembly, applying the principle stated in division (B) 1623
of section 1.52 of the Revised Code that amendments are to be 1624
harmonized if reasonably capable of simultaneous operation, 1625
finds that the composite is the resulting version of the section 1626
in effect prior to the effective date of the section as 1627
presented in this act. 1628