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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.

Senator Manning

A BILL

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

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

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

Sec. 177.011. (A) There is hereby created in the state 15

treasury the organized crime commission fund. The fund shall 16
consist of ~~moneys~~ the following: 17

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

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

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

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

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

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

(a) Commerce; 42

(b) A pipeline system; 43

<u>(c) A railroad car;</u>	44
<u>(d) A motor truck or other vehicle;</u>	45
<u>(e) A tank or storage facility;</u>	46
<u>(f) A station house, platform, or depot;</u>	47
<u>(g) A vessel or wharf;</u>	48
<u>(h) An aircraft, airport terminal, airport, aircraft terminal, or air navigation facility;</u>	49 50
<u>(i) An intermodal container, intermodal chassis, trailer, container freight station, warehouse, freight distribution facility, or freight consolidation facility.</u>	51 52 53
<u>(2) 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>	54 55 56 57 58
(B) <u>(B) (1) Upon the filing of a complaint under division (A) of this section or upon its own initiative, the commission may establish an organized crime task force to investigate organized criminal activity in a single county or in two or more counties if it determines, based upon the complaint filed and the information relative to it or based upon any information that it may have received, that there is reason to believe that organized criminal activity has occurred and continues to occur in that county or in each of those counties. The commission shall not establish an organized crime task force to investigate organized criminal activity in any single county unless it makes the determination required under this division relative to that county and shall not establish an organized crime task force to</u>	59 60 61 62 63 64 65 66 67 68 69 70 71

investigate organized criminal activity in two or more counties 72
unless it makes the determination required under this division 73
relative to each of those counties. The commission, at any time, 74
may terminate an organized crime task force it has established 75
under this section. 76

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

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

(C) (1) If the commission establishes an organized crime 87
task force to investigate organized criminal activity in a 88
single county or in two or more counties pursuant to division 89
(B) of this section, the commission initially shall appoint a 90
task force director to directly supervise the investigation. The 91
task force director shall be either the sheriff or a deputy 92
sheriff of any county in the state, the chief law enforcement 93
officer or a member of a law enforcement agency of any municipal 94
corporation or township in the state, or an agent of the bureau 95
of criminal identification and investigation. No person shall be 96
appointed as task force director without the person's consent 97
and, if applicable, the consent of the person's employing 98
sheriff or law enforcement agency or of the superintendent of 99
the bureau of criminal identification and investigation if the 100
person is an employee of the bureau. Upon appointment of a task 101

force director, the commission shall meet with the director and 102
establish the scope and limits of the investigation to be 103
conducted by the task force and the size of the task force 104
investigatory staff to be appointed by the task force director. 105
The commission, at any time, may remove a task force director 106
appointed under this division and may replace any director so 107
removed according to the guidelines for the initial appointment 108
of a director. 109

(2) A task force director appointed under this section 110
shall assemble a task force investigatory staff, of a size 111
determined by the commission and the director, to conduct the 112
investigation. Unless it appears to the commission and the 113
director, based upon the complaint filed and any information 114
relative to it or based upon any information that the commission 115
may have received, that there is reason to believe that the 116
office of the prosecuting attorney of the county or one of the 117
counties served by the task force is implicated in the organized 118
criminal activity to be investigated, one member of the 119
investigatory staff shall be the prosecuting attorney or an 120
assistant prosecuting attorney of the county or one of the 121
counties served by the task force. If a prosecuting attorney or 122
assistant prosecuting attorney is not a participating member of 123
the task force, the office of the attorney general shall provide 124
legal assistance to the task force upon request. Each of the 125
other members of the investigatory staff shall be either the 126
sheriff or a deputy sheriff of any county in the state, the 127
chief law enforcement officer or a member of a law enforcement 128
agency of any municipal corporation or township in the state, or 129
an agent of the bureau of criminal identification and 130
investigation. No person shall be appointed to the investigatory 131
staff without the person's consent and, if applicable, the 132

consent of the person's employing sheriff or law enforcement 133
agency or the superintendent of the bureau of criminal 134
identification and investigation if the person is an employee of 135
the bureau. To the extent possible, the investigatory staff 136
shall be composed of persons familiar with investigatory 137
techniques that generally would be utilized in an investigation 138
of organized criminal activity. To the extent practicable, the 139
investigatory staff shall be assembled in such a manner that 140
numerous law enforcement agencies within the county or the 141
counties served by the task force are represented on the 142
investigatory staff. The investigatory staff shall be assembled 143
in such a manner that at least one sheriff, deputy sheriff, 144
municipal corporation law enforcement officer, or township law 145
enforcement officer from each of the counties served by the task 146
force is represented on the investigatory staff. A task force 147
director, at any time, may remove any member of the 148
investigatory staff the task force director has assembled under 149
this division and may replace any member so removed according to 150
the guidelines for the initial assembly of the investigatory 151
staff. 152

(3) The commission may provide an organized crime task 153
force established under this section with technical and clerical 154
employees and with equipment necessary to efficiently conduct 155
its investigation into organized criminal activity. 156

(4) Upon the establishment of a task force, the commission 157
shall issue to the task force director and each member of the 158
task force investigatory staff appropriate credentials stating 159
the person's identity, position, and authority. 160

(D) (1) A task force investigatory staff, during the period 161
of the investigation for which it is assembled, is responsible 162

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

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

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

(4) The commission may reimburse a political subdivision 186
for any costs incurred under division (D) (3) of this section 187
resulting from the payment of any compensation, rights, or 188
benefits as described in that division from the organized crime 189
commission fund created in section 177.011 of the Revised Code. 190
Reimbursement related to service on an organized crime task 191
force shall derive from the funding described in division (A) (1) 192

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

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

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

(G) For purposes of divisions (C) and (E) of this section, 220
the office of a prosecuting attorney shall be considered as 221
being implicated in organized criminal activity only if the 222

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

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

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

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

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

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

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

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

(B) The attorney general shall appoint loss prevention 248
representatives to the council after consulting with statewide 249
trade and professional organizations that represent the 250

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

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

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

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

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

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

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

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

(E) Members of the council shall serve without 277
compensation but shall be reimbursed for actual and necessary 278

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

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

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

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

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

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

(b) Before the effective date of this ~~section~~ amendment; 307

(c) Pursuant to a contract executed prior to the effective 308
date of this ~~section~~ amendment. 309

(2) The person who disposed of the equity securities 310
proves in a court of competent jurisdiction either of the 311
following: 312

(a) At the time the proposals or public disclosures were 313
made, the person's sole purpose in making the proposals or 314
public disclosures was to succeed in acquiring control of the 315
corporation and under the circumstances, including, without 316
limitation, the person's proposed price, financing and other 317
acquisition plans, the person's financial resources and 318
capabilities, and all other alternatives reasonably anticipated 319
to become available to the corporation's shareholders, there 320
were reasonable grounds to believe that the person would acquire 321
control of the corporation; 322

(b) The person's public disclosure concerning the 323
intention or possibility of making a proposal to acquire control 324
of the corporation and all other potentially manipulative 325
conduct and practices by or on ~~his~~ the person's behalf were not 326
effected with a purpose of affecting market trading and thereby 327
increasing any profit or decreasing any loss which the person 328
might realize, directly or indirectly, from the disposition of 329
the equity securities and did not have a material effect upon 330
the price or volume of market trading in the equity securities. 331
Evidence with respect to the past practices of such person is 332
admissible and relevant in respect to the person's intent or 333
purpose under divisions (B) (2) (a) and (b) of this section. 334

(3) The aggregate amount of all profit the person 335
realized, directly or indirectly, does not exceed two hundred 336
fifty thousand dollars. 337

(C) Equity securities acquired by a person as a result of 338
a share split, share dividend, or other similar distribution by 339
a corporation of equity securities issued by it not involving a 340
sale of the equity securities, is deemed to have been acquired 341
by such person on the date on which the person acquired the 342
equity security with respect to which the equity securities were 343
subsequently distributed by the corporation. 344

(D) No profit or any portion thereof recoverable by a 345
corporation in an action brought under section 16(b) of the 346
federal "securities exchange act of 1934," is recoverable by the 347
corporation under this section. 348

(E) (1) A corporation may commence an action to recover any 349
profit recoverable under this section in any court of competent 350
jurisdiction. If the corporation fails or refuses to bring the 351
action within sixty days after written request by any holder of 352
any equity security in the corporation or fails to diligently 353
prosecute the action, the holder may bring the action on behalf 354
of the corporation. If a court of competent jurisdiction enters 355
a judgment requiring the payment of any such profits, the party 356
who brought the action is entitled to all costs, including 357
reasonable attorney fees, incurred in connection with the 358
enforcement of this section. 359

(2) No action shall be brought by or on behalf of a 360
corporation upon a cause of action arising under this section at 361
any time after two years from the date on which the disposition 362
of equity securities occurred. 363

(F) This section does not apply to any corporation which 364
does not have issued and outstanding shares that are listed on a 365
national securities exchange or are regularly quoted in an over- 366
the-counter market by one or more members of a national or 367

affiliated securities association or to any corporation whose 368
articles or regulations provide by specific reference to this 369
section that this section does not apply to the corporation and 370
its equity securities. 371

(G) The division of securities, pursuant to Chapter 119. 372
of the Revised Code, may adopt reasonable rules to define terms 373
used in this section and types of conduct or practices which the 374
division determines are either of the following: 375

(1) Comprehended as within the purpose of this section as 376
set forth in division (A) of this section and therefore subject 377
to this section; 378

(2) Not comprehended as within the purpose of division (A) 379
of this section and therefore exempt from this section. 380

(H) As used in this section: 381

(1) "Corporation" and "person" have the same meanings as 382
in section 1701.01 of the Revised Code. 383

(2) "Profit from the disposition of equity securities of a 384
corporation" means both of the following: 385

(a) The excess of the fair market value of the 386
consideration directly or indirectly received or to be received 387
from the disposition, less the usual and customary broker's 388
commissions actually paid in connection with the disposition, 389
over the fair market value of the consideration directly or 390
indirectly paid for the acquisition of the equity securities, 391
plus the usual and customary broker's commissions actually paid 392
in connection with the acquisition; 393

(b) The value of any tax benefit to which a person is 394
directly or indirectly entitled resulting from disposition of 395

equity securities of the corporation for consideration with a 396
value that is less than the fair market value of the equity 397
securities at the time of disposition. 398

(3) "Disposition of equity securities of a corporation" 399
means any sale, exchange, transfer, or other disposition of any 400
kind of the equity securities to the corporation or any contract 401
to sell, exchange, transfer, or otherwise dispose of the equity 402
securities, ~~to any other person, including the corporation,~~ for 403
valuable consideration. 404

(4) "Equity securities" means any of the following: 405

(a) Shares of any class or series of a corporation; 406

(b) Any securities convertible into or exercisable for 407
shares of any class or series of a corporation, with or without 408
additional consideration; 409

(c) Any warrant, right, or option to subscribe for or to 410
purchase shares of any class or series of the corporation, or 411
any securities convertible into shares of any class or series; 412

(d) Any interest, direct or indirect, in any equity 413
securities. 414

(5) "Manipulative practices" means either or both of the 415
following: 416

(a) The act of staging a hostile takeover bid in order to 417
manipulate a corporation into repurchasing the corporation's own 418
common stock at a premium above the current market price; 419

(b) Any other act that the division of securities defines 420
as a "manipulative practice" pursuant to division (G) of this 421
section. 422

(6) "Publicly disclosed," "publicly discloses," and 423
"public disclosure" includes, but is not limited to, any 424
disclosure, whether or not required by law, that becomes public 425
and was made or caused to be made by a person: 426

(a) With the intent or expectation that the disclosure 427
become public; or 428

(b) To another person where the person making or causing 429
to be made the disclosure, knows or reasonably should know, that 430
the person who receives the disclosure is not under an 431
obligation to refrain from making the disclosure, directly or 432
indirectly, to the public and such person does make the 433
disclosure, directly or indirectly, to the public. 434

~~(6)~~ (7) "To acquire control of the corporation" means the 435
acquisition by any person, directly or indirectly, either alone 436
or in concert with another person, of the power, whether or not 437
exercised, to direct or cause the direction of the management 438
and policies of the corporation, whether through the ownership 439
of voting shares, or by contract ~~or otherwise~~, unless any 440
proposal, or public disclosure of the intention or possibility 441
of making a proposal, to acquire control of the corporation made 442
by such person affirmatively states that the person does not 443
intend, either alone or in concert with another person, to 444
exercise control of the corporation and such person does not, 445
directly or indirectly, exercise control of the corporation 446
prior to ~~his~~ the person's disposition of any equity securities 447
of the corporation. "To acquire control of the corporation" does 448
not include attempts by shareholders to generally influence a 449
corporation's policies or actions, including attempts to 450
nominate candidates for director of the corporation. 451

Sec. 2913.01. As used in this chapter, unless the context 452

requires that a term be given a different meaning: 453

(A) "Deception" means knowingly deceiving another or 454
causing another to be deceived by any false or misleading 455
representation, by withholding information, by preventing 456
another from acquiring information, or by any other conduct, 457
act, or omission that creates, confirms, or perpetuates a false 458
impression in another, including a false impression as to law, 459
value, state of mind, or other objective or subjective fact. 460

(B) "Defraud" means to knowingly obtain, by deception, 461
some benefit for oneself or another, or to knowingly cause, by 462
deception, some detriment to another. 463

(C) "Deprive" means to do any of the following: 464

(1) Withhold property of another permanently, or for a 465
period that appropriates a substantial portion of its value or 466
use, or with purpose to restore it only upon payment of a reward 467
or other consideration; 468

(2) Dispose of property so as to make it unlikely that the 469
owner will recover it; 470

(3) Accept, use, or appropriate money, property, or 471
services, with purpose not to give proper consideration in 472
return for the money, property, or services, and without 473
reasonable justification or excuse for not giving proper 474
consideration. 475

(D) "Owner" means, unless the context requires a different 476
meaning, any person, other than the actor, who is the owner of, 477
who has possession or control of, or who has any license or 478
interest in property or services, even though the ownership, 479
possession, control, license, or interest is unlawful. 480

(E) "Services" include labor, personal services, 481
professional services, rental services, public utility services 482
including wireless service as defined in division (F) (1) of 483
section 128.01 of the Revised Code, common carrier services, and 484
food, drink, transportation, entertainment, and cable television 485
services and, for purposes of section 2913.04 of the Revised 486
Code, include cable services as defined in that section. 487

(F) "Writing" means any computer software, document, 488
letter, memorandum, note, paper, plate, data, film, or other 489
thing having in or upon it any written, typewritten, or printed 490
matter, and any token, stamp, seal, credit card, badge, 491
trademark, label, or other symbol of value, right, privilege, 492
license, or identification. 493

(G) "Forge" means to fabricate or create, in whole or in 494
part and by any means, any spurious writing, or to make, 495
execute, alter, complete, reproduce, or otherwise purport to 496
authenticate any writing, when the writing in fact is not 497
authenticated by that conduct. 498

(H) "Utter" means to issue, publish, transfer, use, put or 499
send into circulation, deliver, or display. 500

(I) "Coin machine" means any mechanical or electronic 501
device designed to do both of the following: 502

(1) Receive a coin, bill, or token made for that purpose; 503

(2) In return for the insertion or deposit of a coin, 504
bill, or token, automatically dispense property, provide a 505
service, or grant a license. 506

(J) "Slug" means an object that, by virtue of its size, 507
shape, composition, or other quality, is capable of being 508
inserted or deposited in a coin machine as an improper 509

substitute for a genuine coin, bill, or token made for that 510
purpose. 511

(K) "Theft offense" means any of the following: 512

(1) A violation of section 2911.01, 2911.02, 2911.11, 513
2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 514
2913.041, 2913.05, 2913.06, 2913.08, 2913.11, 2913.21, 2913.31, 515
2913.32, 2913.33, 2913.34, 2913.40, 2913.42, 2913.43, 2913.44, 516
2913.45, 2913.47, 2913.48, former section 2913.47 or 2913.48, or 517
section 2913.51, 2915.05, or 2921.41 of the Revised Code; 518

(2) A violation of an existing or former municipal 519
ordinance or law of this or any other state, or of the United 520
States, substantially equivalent to any section listed in 521
division (K) (1) of this section or a violation of section 522
2913.41, 2913.81, or 2915.06 of the Revised Code as it existed 523
prior to July 1, 1996; 524

(3) An offense under an existing or former municipal 525
ordinance or law of this or any other state, or of the United 526
States, involving robbery, burglary, breaking and entering, 527
theft, embezzlement, wrongful conversion, forgery, 528
counterfeiting, deceit, or fraud; 529

(4) A conspiracy or attempt to commit, or complicity in 530
committing, any offense under division (K) (1), (2), or (3) of 531
this section. 532

(L) "Computer services" includes, but is not limited to, 533
the use of a computer system, computer network, computer 534
program, data that is prepared for computer use, or data that is 535
contained within a computer system or computer network. 536

(M) "Computer" means an electronic device that performs 537
logical, arithmetic, and memory functions by the manipulation of 538

electronic or magnetic impulses. "Computer" includes, but is not 539
limited to, all input, output, processing, storage, computer 540
program, or communication facilities that are connected, or 541
related, in a computer system or network to an electronic device 542
of that nature. 543

(N) "Computer system" means a computer and related 544
devices, whether connected or unconnected, including, but not 545
limited to, data input, output, and storage devices, data 546
communications links, and computer programs and data that make 547
the system capable of performing specified special purpose data 548
processing tasks. 549

(O) "Computer network" means a set of related and remotely 550
connected computers and communication facilities that includes 551
more than one computer system that has the capability to 552
transmit among the connected computers and communication 553
facilities through the use of computer facilities. 554

(P) "Computer program" means an ordered set of data 555
representing coded instructions or statements that, when 556
executed by a computer, cause the computer to process data. 557

(Q) "Computer software" means computer programs, 558
procedures, and other documentation associated with the 559
operation of a computer system. 560

(R) "Data" means a representation of information, 561
knowledge, facts, concepts, or instructions that are being or 562
have been prepared in a formalized manner and that are intended 563
for use in a computer, computer system, or computer network. For 564
purposes of section 2913.47 of the Revised Code, "data" has the 565
additional meaning set forth in division (A) of that section. 566

(S) "Cable television service" means any services provided 567

by or through the facilities of any cable television system or 568
other similar closed circuit coaxial cable communications 569
system, or any microwave or similar transmission service used in 570
connection with any cable television system or other similar 571
closed circuit coaxial cable communications system. 572

(T) "Gain access" means to approach, instruct, communicate 573
with, store data in, retrieve data from, or otherwise make use 574
of any resources of a computer, computer system, or computer 575
network, or any cable service or cable system both as defined in 576
section 2913.04 of the Revised Code. 577

(U) "Credit card" includes, but is not limited to, a card, 578
code, device, or other means of access to a customer's account 579
for the purpose of obtaining money, property, labor, or services 580
on credit, or for initiating an electronic fund transfer at a 581
point-of-sale terminal, an automated teller machine, or a cash 582
dispensing machine. It also includes a county procurement card 583
issued under section 301.29 of the Revised Code. 584

(V) "Electronic fund transfer" has the same meaning as in 585
92 Stat. 3728, 15 U.S.C.A. 1693a, as amended. 586

(W) "Rented property" means personal property in which the 587
right of possession and use of the property is for a short and 588
possibly indeterminate term in return for consideration; the 589
rentee generally controls the duration of possession of the 590
property, within any applicable minimum or maximum term; and the 591
amount of consideration generally is determined by the duration 592
of possession of the property. 593

(X) "Telecommunication" means the origination, emission, 594
dissemination, transmission, or reception of data, images, 595
signals, sounds, or other intelligence or equivalence of 596

intelligence of any nature over any communications system by any 597
method, including, but not limited to, a fiber optic, 598
electronic, magnetic, optical, digital, or analog method. 599

(Y) "Telecommunications device" means any instrument, 600
equipment, machine, or other device that facilitates 601
telecommunication, including, but not limited to, a computer, 602
computer network, computer chip, computer circuit, scanner, 603
telephone, cellular telephone, pager, personal communications 604
device, transponder, receiver, radio, modem, or device that 605
enables the use of a modem. 606

(Z) "Telecommunications service" means the providing, 607
allowing, facilitating, or generating of any form of 608
telecommunication through the use of a telecommunications device 609
over a telecommunications system. 610

(AA) "Counterfeit telecommunications device" means a 611
telecommunications device that, alone or with another 612
telecommunications device, has been altered, constructed, 613
manufactured, or programmed to acquire, intercept, receive, or 614
otherwise facilitate the use of a telecommunications service or 615
information service without the authority or consent of the 616
provider of the telecommunications service or information 617
service. "Counterfeit telecommunications device" includes, but 618
is not limited to, a clone telephone, clone microchip, tumbler 619
telephone, or tumbler microchip; a wireless scanning device 620
capable of acquiring, intercepting, receiving, or otherwise 621
facilitating the use of telecommunications service or 622
information service without immediate detection; or a device, 623
equipment, hardware, or software designed for, or capable of, 624
altering or changing the electronic serial number in a wireless 625
telephone. 626

(BB) (1) "Information service" means, subject to division 627
(BB) (2) of this section, the offering of a capability for 628
generating, acquiring, storing, transforming, processing, 629
retrieving, utilizing, or making available information via 630
telecommunications, including, but not limited to, electronic 631
publishing. 632

(2) "Information service" does not include any use of a 633
capability of a type described in division (BB) (1) of this 634
section for the management, control, or operation of a 635
telecommunications system or the management of a 636
telecommunications service. 637

(CC) "Elderly person" means a person who is sixty-five 638
years of age or older. 639

(DD) "Disabled adult" means a person who is eighteen years 640
of age or older and has some impairment of body or mind that 641
makes the person unable to work at any substantially 642
remunerative employment that the person otherwise would be able 643
to perform and that will, with reasonable probability, continue 644
for a period of at least twelve months without any present 645
indication of recovery from the impairment, or who is eighteen 646
years of age or older and has been certified as permanently and 647
totally disabled by an agency of this state or the United States 648
that has the function of so classifying persons. 649

(EE) "Firearm" and "dangerous ordnance" have the same 650
meanings as in section 2923.11 of the Revised Code. 651

(FF) "Motor vehicle" has the same meaning as in section 652
4501.01 of the Revised Code. 653

(GG) "Dangerous drug" has the same meaning as in section 654
4729.01 of the Revised Code. 655

(HH) "Drug abuse offense" has the same meaning as in 656
section 2925.01 of the Revised Code. 657

(II)(1) "Computer hacking" means any of the following: 658

(a) Gaining access or attempting to gain access to all or 659
part of a computer, computer system, or a computer network 660
without express or implied authorization with the intent to 661
defraud or with intent to commit a crime; 662

(b) Misusing computer or network services including, but 663
not limited to, mail transfer programs, file transfer programs, 664
proxy servers, and web servers by performing functions not 665
authorized by the owner of the computer, computer system, or 666
computer network or other person authorized to give consent. As 667
used in this division, "misuse of computer and network services" 668
includes, but is not limited to, the unauthorized use of any of 669
the following: 670

(i) Mail transfer programs to send mail to persons other 671
than the authorized users of that computer or computer network; 672

(ii) File transfer program proxy services or proxy servers 673
to access other computers, computer systems, or computer 674
networks; 675

(iii) Web servers to redirect users to other web pages or 676
web servers. 677

(c)(i) Subject to division (II)(1)(c)(ii) of this section, 678
using a group of computer programs commonly known as "port 679
scanners" or "probes" to intentionally access any computer, 680
computer system, or computer network without the permission of 681
the owner of the computer, computer system, or computer network 682
or other person authorized to give consent. The group of 683
computer programs referred to in this division includes, but is 684

not limited to, those computer programs that use a computer 685
network to access a computer, computer system, or another 686
computer network to determine any of the following: the presence 687
or types of computers or computer systems on a network; the 688
computer network's facilities and capabilities; the availability 689
of computer or network services; the presence or versions of 690
computer software including, but not limited to, operating 691
systems, computer services, or computer contaminants; the 692
presence of a known computer software deficiency that can be 693
used to gain unauthorized access to a computer, computer system, 694
or computer network; or any other information about a computer, 695
computer system, or computer network not necessary for the 696
normal and lawful operation of the computer initiating the 697
access. 698

(ii) The group of computer programs referred to in 699
division (II) (1) (c) (i) of this section does not include standard 700
computer software used for the normal operation, administration, 701
management, and test of a computer, computer system, or computer 702
network including, but not limited to, domain name services, 703
mail transfer services, and other operating system services, 704
computer programs commonly called "ping," "tcpdump," and 705
"traceroute" and other network monitoring and management 706
computer software, and computer programs commonly known as 707
"nslookup" and "whois" and other systems administration computer 708
software. 709

(d) The intentional use of a computer, computer system, or 710
a computer network in a manner that exceeds any right or 711
permission granted by the owner of the computer, computer 712
system, or computer network or other person authorized to give 713
consent. 714

(2) "Computer hacking" does not include the introduction 715
of a computer contaminant, as defined in section 2909.01 of the 716
Revised Code, into a computer, computer system, computer 717
program, or computer network. 718

(JJ) "Police dog or horse" has the same meaning as in 719
section 2921.321 of the Revised Code. 720

(KK) "Anhydrous ammonia" is a compound formed by the 721
combination of two gaseous elements, nitrogen and hydrogen, in 722
the manner described in this division. Anhydrous ammonia is one 723
part nitrogen to three parts hydrogen (NH₃). Anhydrous ammonia 724
by weight is fourteen parts nitrogen to three parts hydrogen, 725
which is approximately eighty-two per cent nitrogen to eighteen 726
per cent hydrogen. 727

(LL) "Assistance dog" has the same meaning as in section 728
955.011 of the Revised Code. 729

(MM) "Federally licensed firearms dealer" has the same 730
meaning as in section 5502.63 of the Revised Code. 731

(NN) "Active duty service member" means any member of the 732
armed forces of the United States performing active duty under 733
title 10 of the United States Code. 734

Sec. 2913.02. (A) No person, with purpose to deprive the 735
owner of property or services, shall knowingly obtain or exert 736
control over either the property or services in any of the 737
following ways: 738

(1) Without the consent of the owner or person authorized 739
to give consent; 740

(2) Beyond the scope of the express or implied consent of 741
the owner or person authorized to give consent; 742

(3) By deception;	743
(4) By threat;	744
(5) By intimidation.	745
(B) (1) Whoever violates this section is guilty of theft.	746
(2) Except as otherwise provided in this division or	747
division (B) (3), (4), (5), (6), (7), (8), or (9) of this	748
section, a violation of this section is misdemeanor theft, a	749
misdemeanor of the first degree. If the value of the property or	750
services stolen is one thousand dollars or more and is less than	751
seven thousand five hundred dollars or if the property stolen is	752
any of the property listed in section 2913.71 of the Revised	753
Code, a violation of this section is theft, a felony of the	754
fifth degree. If the value of the property or services stolen is	755
seven thousand five hundred dollars or more and is less than one	756
hundred fifty thousand dollars, <u>or if the offender has been</u>	757
<u>convicted of or pleaded guilty to a felony theft offense within</u>	758
<u>the previous three years,</u> a violation of this section is grand	759
theft, a felony of the fourth degree. If the value of the	760
property or services stolen is one hundred fifty thousand	761
dollars or more and is less than seven hundred fifty thousand	762
dollars, <u>or if the offender two or more times has been convicted</u>	763
<u>of or pleaded guilty to a felony theft offense within the</u>	764
<u>previous three years,</u> a violation of this section is aggravated	765
theft, a felony of the third degree. If the value of the	766
property or services is seven hundred fifty thousand dollars or	767
more and is less than one million five hundred thousand dollars,	768
a violation of this section is aggravated theft, a felony of the	769
second degree. If the value of the property or services stolen	770
is one million five hundred thousand dollars or more, a	771
violation of this section is aggravated theft of one million	772

five hundred thousand dollars or more, a felony of the first 773
degree. 774

(3) Except as otherwise provided in division (B) (4), (5), 775
(6), (7), (8), or (9) of this section, if the victim of the 776
offense is an elderly person, disabled adult, active duty 777
service member, or spouse of an active duty service member, a 778
violation of this section is theft from a person in a protected 779
class, and division (B) (3) of this section applies. Except as 780
otherwise provided in this division, theft from a person in a 781
protected class is a felony of the fifth degree. If the value of 782
the property or services stolen is one thousand dollars or more 783
and is less than seven thousand five hundred dollars, or if the 784
offender has been convicted of or pleaded guilty to a felony 785
theft offense within the previous three years, theft from a 786
person in a protected class is a felony of the fourth degree. If 787
the value of the property or services stolen is seven thousand 788
five hundred dollars or more and is less than thirty-seven 789
thousand five hundred dollars, or if the offender two or more 790
times has been convicted of or pleaded guilty to a felony theft 791
offense within the previous three years, theft from a person in 792
a protected class is a felony of the third degree. If the value 793
of the property or services stolen is thirty-seven thousand five 794
hundred dollars or more and is less than one hundred fifty 795
thousand dollars, theft from a person in a protected class is a 796
felony of the second degree. If the value of the property or 797
services stolen is one hundred fifty thousand dollars or more, 798
theft from a person in a protected class is a felony of the 799
first degree. If the victim of the offense is an elderly person, 800
in addition to any other penalty imposed for the offense, the 801
offender shall be required to pay full restitution to the victim 802
and to pay a fine of up to fifty thousand dollars. The clerk of 803

court shall forward all fines collected under division (B) (3) of 804
this section to the county department of job and family services 805
to be used for the reporting and investigation of elder abuse, 806
neglect, and exploitation or for the provision or arrangement of 807
protective services under sections 5101.61 to 5101.71 of the 808
Revised Code. 809

(4) If the property stolen is a firearm or dangerous 810
ordnance, a violation of this section is grand theft. Except as 811
otherwise provided in this division, grand theft when the 812
property stolen is a firearm or dangerous ordnance is a felony 813
of the third degree, and there is a presumption in favor of the 814
court imposing a prison term for the offense. If the firearm or 815
dangerous ordnance was stolen from a federally licensed firearms 816
dealer, grand theft when the property stolen is a firearm or 817
dangerous ordnance is a felony of the first degree. The offender 818
shall serve a prison term imposed for grand theft when the 819
property stolen is a firearm or dangerous ordnance consecutively 820
to any other prison term or mandatory prison term previously or 821
subsequently imposed upon the offender. 822

(5) If the property stolen is a motor vehicle, a violation 823
of this section is grand theft of a motor vehicle, a felony of 824
the fourth degree. 825

(6) If the property stolen is any dangerous drug, a 826
violation of this section is theft of drugs, a felony of the 827
fourth degree, or, if the offender previously has been convicted 828
of a felony drug abuse offense, a felony of the third degree. 829

(7) If the property stolen is a police dog or horse or an 830
assistance dog and the offender knows or should know that the 831
property stolen is a police dog or horse or an assistance dog, a 832
violation of this section is theft of a police dog or horse or 833

an assistance dog, a felony of the third degree. 834

(8) If the property stolen is anhydrous ammonia, a 835
violation of this section is theft of anhydrous ammonia, a 836
felony of the third degree. 837

(9) Except as provided in division (B) (2) of this section 838
with respect to property with a value of seven thousand five 839
hundred dollars or more and division (B) (3) of this section with 840
respect to property with a value of one thousand dollars or 841
more, if the property stolen is a special purpose article as 842
defined in section 4737.04 of the Revised Code or is a bulk 843
merchandise container as defined in section 4737.012 of the 844
Revised Code, a violation of this section is theft of a special 845
purpose article or articles or theft of a bulk merchandise 846
container or containers, a felony of the fifth degree. 847

(10) In addition to the penalties described in division 848
(B) (2) of this section, if the offender committed the violation 849
by causing a motor vehicle to leave the premises of an 850
establishment at which gasoline is offered for retail sale 851
without the offender making full payment for gasoline that was 852
dispensed into the fuel tank of the motor vehicle or into 853
another container, the court may do one of the following: 854

(a) Unless division (B) (10) (b) of this section applies, 855
suspend for not more than six months the offender's driver's 856
license, probationary driver's license, commercial driver's 857
license, temporary instruction permit, or nonresident operating 858
privilege; 859

(b) If the offender's driver's license, probationary 860
driver's license, commercial driver's license, temporary 861
instruction permit, or nonresident operating privilege has 862

previously been suspended pursuant to division (B) (10) (a) of 863
this section, impose a class seven suspension of the offender's 864
license, permit, or privilege from the range specified in 865
division (A) (7) of section 4510.02 of the Revised Code, provided 866
that the suspension shall be for at least six months. 867

(c) The court, in lieu of suspending the offender's 868
driver's or commercial driver's license, probationary driver's 869
license, temporary instruction permit, or nonresident operating 870
privilege pursuant to division (B) (10) (a) or (b) of this 871
section, instead may require the offender to perform community 872
service for a number of hours determined by the court. 873

(11) In addition to the penalties described in division 874
(B) (2) of this section, if the offender committed the violation 875
by stealing rented property or rental services, the court may 876
order that the offender make restitution pursuant to section 877
2929.18 or 2929.28 of the Revised Code. Restitution may include, 878
but is not limited to, the cost of repairing or replacing the 879
stolen property, or the cost of repairing the stolen property 880
and any loss of revenue resulting from deprivation of the 881
property due to theft of rental services that is less than or 882
equal to the actual value of the property at the time it was 883
rented. Evidence of intent to commit theft of rented property or 884
rental services shall be determined pursuant to the provisions 885
of section 2913.72 of the Revised Code. 886

(C) The sentencing court that suspends an offender's 887
license, permit, or nonresident operating privilege under 888
division (B) (10) of this section may grant the offender limited 889
driving privileges during the period of the suspension in 890
accordance with Chapter 4510. of the Revised Code. 891

Sec. 2913.021. (A) As used in this section, "mail" means 892

any letter, card, parcel, or other material, along with its 893
contents, that is received, accepted for delivery, delivered, or 894
left for collection by a postal service, including the United 895
States postal service, a common carrier, or a private delivery 896
service. 897

(B) No person, with purpose to deprive the owner of mail, 898
shall knowingly obtain or exert control over mail in any of the 899
following ways: 900

(1) Without the consent of the owner or person authorized 901
to give consent; 902

(2) Beyond the scope of the express or implied consent of 903
the owner or person authorized to give consent; 904

(3) By deception; 905

(4) By threat; 906

(5) By intimidation. 907

(C) Whoever violates this section is guilty of theft of 908
mail, a felony of the fifth degree except as provided in 909
division (B) (2) of section 2913.02 of the Revised Code with 910
respect to property with a value of seven thousand five hundred 911
dollars or more and division (B) (3) of section 2913.02 of the 912
Revised Code with respect to property with a value of one 913
thousand dollars or more. 914

(D) A prosecution for a violation of this section does not 915
preclude a prosecution of a violation of any other section of 916
the Revised Code. One or more acts, a series of acts, or a 917
course of behavior that can be prosecuted under this section or 918
any other section of the Revised Code may be prosecuted under 919
this section, the other section of the Revised Code, or both 920

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

Sec. 2913.08. (A) As used in this section: 928

(1) "Enterprise" has the same meaning as in section 929
2923.31 of the Revised Code. 930

(2) "Retail property" means any tangible personal property 931
displayed, held, stored, transported, or offered for sale in or 932
by a retail establishment, manufacturer, distributor, or an 933
online marketplace as defined in section 1349.65 of the Revised 934
Code. "Retail property" includes gift cards as defined in 935
section 1349.61 of the Revised Code. 936

(3) "Retail property fence" means an enterprise that 937
possesses, procures, receives, or conceals retail property that 938
was represented to the enterprise as being stolen or that the 939
enterprise knows or believes to be stolen. 940

(4) "Retail value" means the full retail value of the 941
retail property, including all applicable taxes and shipping 942
costs. 943

(5) "Theft" means conduct that would constitute a 944
violation of section 2913.02 of the Revised Code. 945

(B) No person shall knowingly commit theft of retail 946
property with a retail value of seven thousand five hundred 947
dollars or more from a retail establishment, manufacturer, 948
distributor, or cargo transportation unit for either of the 949

following purposes: 950

(1) To sell, deliver, or transfer that property to a 951
retail property fence; 952

(2) To sell, deliver, transfer, exchange, or return the 953
retail property for value. 954

(C) No person employed by, or associated with, an 955
enterprise shall receive, purchase, or possess retail property 956
with a retail value of seven thousand five hundred dollars or 957
more if the person knows, believes, or has reasonable cause to 958
believe that the property has been obtained by theft. 959

(D) No person shall knowingly act as an agent of an 960
enterprise to steal retail property with a retail value of seven 961
thousand five hundred dollars or more from a retail 962
establishment, manufacturer, distributor, or cargo 963
transportation unit as part of an organized plan to commit 964
theft. 965

(E) No person shall knowingly recruit, coordinate, 966
organize, supervise, direct, manage, or finance an enterprise to 967
undertake any of the acts described in division (B), (C), or (D) 968
of this section. 969

(F) Whoever violates this section is guilty of organized 970
theft of retail property. If the retail value is less than seven 971
hundred fifty thousand dollars, organized theft of retail 972
property is a felony of the third degree. If the retail value is 973
seven hundred fifty thousand dollars or more but less than one 974
million five hundred thousand dollars, organized theft of retail 975
property is a felony of the second degree. If the retail value 976
is one million five hundred thousand dollars or more, organized 977
theft of retail property is a felony of the first degree. If 978

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

(G) In determining whether the retail value of retail 991
property equals or exceeds seven thousand five hundred dollars, 992
the value of all retail property stolen from the retail 993
establishment or retail establishments by the same person or 994
persons within any twelve-month period shall be aggregated. 995

(H) (1) A prosecution for a violation of this section does 996
not preclude a prosecution for a violation of section 2913.02, 997
2913.51, or 2913.32 of the Revised Code based on the same 998
conduct or a prosecution for a violation of section 2923.32 of 999
the Revised Code based on the same conduct where the violation 1000
involves engaging in a pattern of corrupt activity related to 1001
organized retail theft. 1002

(2) If an offender is convicted of or pleads guilty to a 1003
violation of this section and is also convicted of or pleads 1004
guilty to a violation described in division (H) (1) of this 1005
section based on the same conduct that was the basis of the 1006
violation of this section, the two or more offenses are allied 1007
offenses of similar import under section 2941.25 of the Revised 1008

<u>Code.</u>	1009
Sec. 2913.30. (A) As used in this section:	1010
(1) "Access device" means any debit or credit card	1011
representing a monetary security or retail amount by any	1012
financial institution, including a bank, savings bank, savings	1013
and loan association, credit union, or business entity. <u>"Access</u>	1014
<u>device" includes a gift card as defined in section 1349.61 of</u>	1015
<u>the Revised Code.</u>	1016
(2) "Obligation or other security" means an instrument	1017
recognized as currency or legal tender or that is issued by the	1018
United States treasury, including bills, coins, bonds, or	1019
checks.	1020
(3) <u>"Encoding machine" means an electronic device that is</u>	1021
<u>used to encode information onto an access device.</u>	1022
(4) <u>"Merchant" means an owner or operator of a retail</u>	1023
<u>establishment or an agent, employee, lessee, consignee, officer,</u>	1024
<u>director, franchisee, or independent contractor of the owner or</u>	1025
<u>operator.</u>	1026
(5) <u>"Scanning device" means a scanner, reader, wireless</u>	1027
<u>access device, radio frequency identification scanner, an</u>	1028
<u>electronic device that utilizes near field communication</u>	1029
<u>technology, or any other electronic device that is used to</u>	1030
<u>access, read, scan, obtain, memorize, or store, temporarily or</u>	1031
<u>permanently, information encoded on an access device.</u>	1032
(B) No person, with purpose to defraud or knowing that the	1033
person is facilitating a fraud, shall do any of the following:	1034
(1) Falsely make, forge, counterfeit, or alter any	1035
obligation or other security of the United States;	1036

(2) Pass, utter, sell, purchase, conceal, or transfer any 1037
counterfeit obligation or other security of the United States; 1038

(3) Possess with the purpose to utter any obligation or 1039
other security of the United States, knowing that the obligation 1040
or other security has been counterfeited; 1041

(4) Without authorization of the issuer, falsely make, 1042
forge, counterfeit, alter, or knowingly possess any access 1043
device; 1044

(5) Directly or indirectly use a scanning device to 1045
access, read, obtain, memorize, or store, temporarily or 1046
permanently, information encoded on an access device without the 1047
permission of the authorized user of the access device, the 1048
financial institution issuing the authorized user's access 1049
device, or a merchant; 1050

(6) Directly or indirectly use an encoding machine to 1051
place information encoded on an access device onto a different 1052
access device without the permission of the authorized user of 1053
the access device from which the information was obtained, the 1054
financial institution issuing the authorized user's access 1055
device, or a merchant. 1056

(C) Whoever violates this section is guilty of 1057
counterfeiting. Except as otherwise provided in this division, 1058
counterfeiting is a felony of the fourth degree, and in 1059
addition, the court shall impose on the offender a fine from the 1060
range of fines for a felony of the fourth degree that is not 1061
less than five hundred dollars. 1062

(1) If the value of the counterfeited obligations or other 1063
securities or access devices is five thousand dollars or more 1064
and is less than one hundred thousand dollars, or if the offense 1065

involves five or more access devices, counterfeiting is a felony 1066
of the third degree. 1067

(2) If the value of the counterfeited obligations or other 1068
securities or access devices is one hundred thousand dollars or 1069
more and is less than one million dollars, counterfeiting is a 1070
felony of the second degree. 1071

(3) If the value of the counterfeited obligations or other 1072
securities or access devices is one million dollars or more, 1073
counterfeiting is a felony of the first degree. 1074

(D) A prosecution for a violation of this section does not 1075
preclude a prosecution for a violation of section 2913.02, 1076
2913.31, or 2913.32 of the Revised Code based on the same 1077
conduct. However, if an offender is convicted of or pleads 1078
guilty to a violation of this section and is also convicted of 1079
or pleads guilty to a violation of section 2913.02, 2913.31, or 1080
2913.32 of the Revised Code based on the same conduct involving 1081
the same victim that was the basis of the violation of this 1082
section, the two or more offenses are allied offenses of similar 1083
import under section 2941.25 of the Revised Code. 1084

Sec. 2923.32. (A) (1) No person employed by, or associated 1085
with, any enterprise shall conduct or participate in, directly 1086
or indirectly, the affairs of the enterprise through a pattern 1087
of corrupt activity or the collection of an unlawful debt. 1088

(2) No person, through a pattern of corrupt activity or 1089
the collection of an unlawful debt, shall acquire or maintain, 1090
directly or indirectly, any interest in, or control of, any 1091
enterprise or real property. 1092

(3) No person, who knowingly has received any proceeds 1093
derived, directly or indirectly, from a pattern of corrupt 1094

activity or the collection of any unlawful debt, shall use or 1095
invest, directly or indirectly, any part of those proceeds, or 1096
any proceeds derived from the use or investment of any of those 1097
proceeds, in the acquisition of any title to, or any right, 1098
interest, or equity in, real property or in the establishment or 1099
operation of any enterprise. 1100

A purchase of securities on the open market with intent to 1101
make an investment, without intent to control or participate in 1102
the control of the issuer, and without intent to assist another 1103
to do so is not a violation of this division, if the securities 1104
of the issuer held after the purchase by the purchaser, the 1105
members of the purchaser's immediate family, and the purchaser's 1106
or the immediate family members' accomplices in any pattern of 1107
corrupt activity or the collection of an unlawful debt do not 1108
aggregate one per cent of the outstanding securities of any one 1109
class of the issuer and do not confer, in law or in fact, the 1110
power to elect one or more directors of the issuer. 1111

(B) (1) Whoever violates this section is guilty of engaging 1112
in a pattern of corrupt activity. Except as otherwise provided 1113
in this division, engaging in corrupt activity is a felony of 1114
the second degree. Except as otherwise provided in this 1115
division, if at least one of the incidents of corrupt activity 1116
is a felony of the first, second, or third degree, aggravated 1117
murder, or murder, if at least one of the incidents was a felony 1118
under the law of this state that was committed prior to July 1, 1119
1996, and that would constitute a felony of the first, second, 1120
or third degree, aggravated murder, or murder if committed on or 1121
after July 1, 1996, or if at least one of the incidents of 1122
corrupt activity is a felony under the law of the United States 1123
or of another state that, if committed in this state on or after 1124
July 1, 1996, would constitute a felony of the first, second, or 1125

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

(2) Notwithstanding the financial sanctions authorized by 1141
section 2929.18 of the Revised Code, the court may do all of the 1142
following with respect to any person who derives pecuniary value 1143
or causes property damage, personal injury other than pain and 1144
suffering, or other loss through or by the violation of this 1145
section: 1146

(a) In lieu of the fine authorized by that section, impose 1147
a fine not exceeding the greater of three times the gross value 1148
gained or three times the gross loss caused and order the clerk 1149
of the court to pay the fine into the state treasury to the 1150
credit of the corrupt activity investigation and prosecution 1151
fund, which is hereby created; 1152

(b) In addition to the fine described in division (B) (2) 1153
(a) of this section and the financial sanctions authorized by 1154
section 2929.18 of the Revised Code, order the person to pay 1155

court costs; 1156

(c) In addition to the fine described in division (B) (2) 1157
(a) of this section and the financial sanctions authorized by 1158
section 2929.18 of the Revised Code, order the person to pay to 1159
the state, municipal, or county law enforcement agencies that 1160
handled the investigation and prosecution the costs of 1161
investigation and prosecution that are reasonably incurred. 1162

The court shall hold a hearing to determine the amount of 1163
fine, court costs, and other costs to be imposed under this 1164
division. 1165

(3) In addition to any other penalty or disposition 1166
authorized or required by law, the court shall order any person 1167
who is convicted of or pleads guilty to a violation of this 1168
section or who is adjudicated delinquent by reason of a 1169
violation of this section to criminally forfeit to the state 1170
under Chapter 2981. of the Revised Code any personal or real 1171
property in which the person has an interest and that was used 1172
in the course of or intended for use in the course of a 1173
violation of this section, or that was derived from or realized 1174
through conduct in violation of this section, including any 1175
property constituting an interest in, means of control over, or 1176
influence over the enterprise involved in the violation and any 1177
property constituting proceeds derived from the violation, 1178
including all of the following: 1179

(a) Any position, office, appointment, tenure, commission, 1180
or employment contract of any kind acquired or maintained by the 1181
person in violation of this section, through which the person, 1182
in violation of this section, conducted or participated in the 1183
conduct of an enterprise, or that afforded the person a source 1184
of influence or control over an enterprise that the person 1185

exercised in violation of this section; 1186

(b) Any compensation, right, or benefit derived from a 1187
position, office, appointment, tenure, commission, or employment 1188
contract described in division (B) (3) (a) of this section that 1189
accrued to the person in violation of this section during the 1190
period of the pattern of corrupt activity; 1191

(c) Any interest in, security of, claim against, or 1192
property or contractual right affording the person a source of 1193
influence or control over the affairs of an enterprise that the 1194
person exercised in violation of this section; 1195

(d) Any amount payable or paid under any contract for 1196
goods or services that was awarded or performed in violation of 1197
this section. 1198

(C) If a pattern of corrupt activity involves one or more 1199
incidents of organized retail theft, the retail establishment, 1200
manufacturer, distributor, cargo transportation unit, online 1201
marketplace, or group of those entities whose retail property is 1202
alleged to have been stolen may contact the prosecuting attorney 1203
and request that the charge be aggregated with other thefts of 1204
retail property about which the retail establishment or group of 1205
establishments is aware. 1206

In determining whether the retail value of stolen retail 1207
property equals or exceeds one thousand dollars, the value of 1208
all retail property stolen from the retail establishment or 1209
group of establishments by the same person or persons within any 1210
six-month period shall be aggregated. 1211

Sec. 5739.17. (A) No person shall engage in making retail 1212
sales subject to a tax imposed by or pursuant to section 1213
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code as 1214

a business without having a license therefor, except as 1215
otherwise provided in divisions (A) (1), (2), and (3) of this 1216
section. 1217

(1) In the dissolution of a partnership by death, the 1218
surviving partner may operate under the license of the 1219
partnership for a period of sixty days. 1220

(2) The heirs or legal representatives of deceased 1221
persons, and receivers and trustees in bankruptcy, appointed by 1222
any competent authority, may operate under the license of the 1223
person so succeeded in possession. 1224

(3) Two or more persons who are not partners may operate a 1225
single place of business under one license. In such case neither 1226
the retirement of any such person from business at that place of 1227
business, nor the entrance of any person, under an existing 1228
arrangement, shall affect the license or require the issuance of 1229
a new license, unless the person retiring from the business is 1230
the individual named on the vendor's license. 1231

Except as otherwise provided in this section, each 1232
applicant for a license shall make out and deliver to the county 1233
auditor of each county in which the applicant desires to engage 1234
in business, upon a blank to be furnished by such auditor for 1235
that purpose, a statement showing the name of the applicant, 1236
each place of business in the county where the applicant will 1237
make retail sales, the nature of the business, and any other 1238
information the tax commissioner reasonably prescribes in the 1239
form of a statement prescribed by the commissioner. 1240

At the time of making the application, the applicant shall 1241
pay into the county treasury a license fee in the sum of ~~twenty-~~ 1242
~~five-~~fifty dollars for each fixed place of business in the 1243

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

(B) If a vendor's identity changes, the vendor shall apply 1256
for a new license. If a vendor wishes to move an existing fixed 1257
place of business to a new location within the same county, the 1258
vendor shall obtain a new vendor's license or submit a request 1259
to the commissioner to transfer the existing vendor's license to 1260
the new location. When the new location has been verified as 1261
being within the same county, the commissioner shall authorize 1262
the transfer and notify the county auditor of the change of 1263
location. If a vendor wishes to move an existing fixed place of 1264
business to another county, the vendor's license shall not 1265
transfer and the vendor shall obtain a new vendor's license from 1266
the county in which the business is to be located. The form of 1267
the license shall be prescribed by the commissioner. The fees 1268
collected shall be credited ~~to the general fund of the county~~as 1269
specified in division (A) (3) of this section. If a vendor fails 1270
to notify the commissioner of a change of location of its fixed 1271
place of business or that its business has closed, the 1272
commissioner may cancel the vendor's license if ordinary mail 1273
sent to the location shown on the license is returned because of 1274

an undeliverable address. 1275

(C) The commissioner may establish or participate in a 1276
registration system whereby any vendor may obtain a vendor's 1277
license by submitting to the commissioner a vendor's license 1278
application and a license fee of ~~twenty-five~~ fifty dollars for 1279
each fixed place of business at which the vendor intends to make 1280
retail sales. Under this registration system, the commissioner 1281
shall issue a vendor's license to the applicant on behalf of the 1282
county auditor of the county in which the applicant desires to 1283
engage in business, and shall forward a copy of the application 1284
and license fee to that county. All such Twenty-five dollars of 1285
each license fees-fee received by the commissioner for the 1286
issuance of vendor's licenses shall be deposited into the 1287
vendor's license application fund, which is hereby created in 1288
the state treasury. The remaining twenty-five dollars of each 1289
license fee shall be deposited into the organized crime 1290
commission fund for the purposes specified in section 177.011 of 1291
the Revised Code. The commissioner shall certify to the director 1292
of budget and management within ten business days after the 1293
close of a month the license fees to be transmitted to each 1294
county from the vendor's license application fund for vendor's 1295
license applications received by the commissioner during that 1296
month. License fees transmitted to a county for which payment 1297
was not received by the commissioner may be netted against a 1298
future distribution to that county, including distributions made 1299
pursuant to section 5739.21 of the Revised Code. 1300

A vendor that makes retail sales subject to tax under 1301
Chapter 5739. of the Revised Code pursuant to a permit issued by 1302
the division of liquor control shall obtain a vendor's license 1303
in the identical name and for the identical address as shown on 1304
the permit. 1305

Except as otherwise provided in this section, if a vendor 1306
has no fixed place of business and sells from a vehicle, each 1307
vehicle intended to be used within a county constitutes a place 1308
of business for the purpose of this section. 1309

(D) As used in this section, "transient vendor" means any 1310
person who makes sales of tangible personal property from 1311
vending machines located on land owned by others, who leases 1312
titled motor vehicles, titled watercraft, or titled outboard 1313
motors, who effectuates leases that are taxed according to 1314
division (A) (2) of section 5739.02 of the Revised Code, or who, 1315
in the usual course of the person's business, transports 1316
inventory, stock of goods, or similar tangible personal property 1317
to a temporary place of business or temporary exhibition, show, 1318
fair, flea market, or similar event in a county in which the 1319
person has no fixed place of business, for the purpose of making 1320
retail sales of such property. A "temporary place of business" 1321
means any public or quasi-public place including, but not 1322
limited to, a hotel, rooming house, storeroom, building, part of 1323
a building, tent, vacant lot, railroad car, or motor vehicle 1324
that is temporarily occupied for the purpose of making retail 1325
sales of goods to the public. A place of business is not 1326
temporary if the same person conducted business at the place 1327
continuously for more than six months or occupied the premises 1328
as the person's permanent residence for more than six months, or 1329
if the person intends it to be a fixed place of business. 1330

Any transient vendor, in lieu of obtaining a vendor's 1331
license under division (A) of this section for counties in which 1332
the transient vendor has no fixed place of business, may apply 1333
to the tax commissioner, on a form prescribed by the 1334
commissioner, for a transient vendor's license. The transient 1335
vendor's license authorizes the transient vendor to make retail 1336

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

Any holder of a valid transient vendor's license may make 1351
retail sales at a temporary place of business or temporary 1352
exhibition, show, fair, flea market, or similar event, held 1353
anywhere in the state without complying with any provision of 1354
section 311.37 of the Revised Code. Any holder of a valid 1355
vendor's license may make retail sales as a transient vendor at 1356
a temporary place of business or temporary exhibition, show, 1357
fair, flea market, or similar event held in any county in which 1358
the vendor maintains a fixed place of business for which the 1359
vendor holds a vendor's license without obtaining a transient 1360
vendor's license. 1361

(E) Any vendor who is issued a license pursuant to this 1362
section shall display the license or a copy of it prominently, 1363
in plain view, at every place of business of the vendor. 1364

(F) No owner, organizer, or promoter who operates a fair, 1365
flea market, show, exhibition, convention, or similar event at 1366

which transient vendors are present shall fail to keep a 1367
comprehensive record of all such vendors, listing the vendor's 1368
name, permanent address, vendor's license number, and the type 1369
of goods sold. Such records shall be kept for four years and 1370
shall be open to inspection by the commissioner. 1371

(G) The commissioner may issue additional types of 1372
licenses if required to efficiently administer the tax imposed 1373
by this chapter. 1374

Section 2. That existing sections 177.011, 177.02, 1375
1707.043, 2913.01, 2913.02, 2913.30, 2923.32, and 5739.17 of the 1376
Revised Code are hereby repealed. 1377

Section 3. This act shall be known as the Fight Organized 1378
Retail Crime and Empower Law Enforcement (FORCE) Act. 1379