

**As Introduced**

**135th General Assembly**

**Regular Session**

**2023-2024**

**H. B. No. 37**

**Representatives Johnson, Miller, K.**

**Cosponsors: Representatives Merrin, Plummer, Hall, Stewart, Dean, Gross**

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**A BILL**

To amend sections 2903.06, 2929.142, and 4511.19 of  
the Revised Code to increase the financial  
penalties for OVI and to increase the financial  
penalties and prison term for aggravated  
vehicular homicide under specified  
circumstances.

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

**Section 1.** That sections 2903.06, 2929.142, and 4511.19 of  
the Revised Code be amended to read as follows:

**Sec. 2903.06.** (A) No person, while operating or  
participating in the operation of a motor vehicle, motorcycle,  
snowmobile, locomotive, watercraft, or aircraft, shall cause the  
death of another or the unlawful termination of another's  
pregnancy in any of the following ways:

(1) (a) As the proximate result of committing a violation  
of division (A) of section 4511.19 of the Revised Code or of a  
substantially equivalent municipal ordinance;

(b) As the proximate result of committing a violation of  
division (A) of section 1547.11 of the Revised Code or of a

substantially equivalent municipal ordinance;	19
(c) As the proximate result of committing a violation of	20
division (A) (3) of section 4561.15 of the Revised Code or of a	21
substantially equivalent municipal ordinance.	22
(2) In one of the following ways:	23
(a) Recklessly;	24
(b) As the proximate result of committing, while operating	25
or participating in the operation of a motor vehicle or	26
motorcycle in a construction zone, a reckless operation offense,	27
provided that this division applies only if the person whose	28
death is caused or whose pregnancy is unlawfully terminated is	29
in the construction zone at the time of the offender's	30
commission of the reckless operation offense in the construction	31
zone and does not apply as described in division (F) of this	32
section.	33
(3) In one of the following ways:	34
(a) Negligently;	35
(b) As the proximate result of committing, while operating	36
or participating in the operation of a motor vehicle or	37
motorcycle in a construction zone, a speeding offense, provided	38
that this division applies only if the person whose death is	39
caused or whose pregnancy is unlawfully terminated is in the	40
construction zone at the time of the offender's commission of	41
the speeding offense in the construction zone and does not apply	42
as described in division (F) of this section.	43
(4) As the proximate result of committing a violation of	44
any provision of any section contained in Title XLV of the	45
Revised Code that is a minor misdemeanor or of a municipal	46

ordinance that, regardless of the penalty set by ordinance for 47  
the violation, is substantially equivalent to any provision of 48  
any section contained in Title XLV of the Revised Code that is a 49  
minor misdemeanor. 50

(B) (1) Whoever violates division (A) (1) or (2) of this 51  
section is guilty of aggravated vehicular homicide and shall be 52  
punished as provided in divisions (B) (2) and (3) of this 53  
section. 54

(2) (a) Except as otherwise provided in division (B) (2) (b) 55  
or (c) of this section, aggravated vehicular homicide committed 56  
in violation of division (A) (1) of this section is a felony of 57  
the second degree and the court shall impose a mandatory prison 58  
term on the offender as described in division (E) of this 59  
section. 60

(b) Except as otherwise provided in division (B) (2) (c) of 61  
this section, aggravated vehicular homicide committed in 62  
violation of division (A) (1) of this section is a felony of the 63  
first degree, and the court shall impose a mandatory prison term 64  
on the offender as described in division (E) of this section, if 65  
any of the following apply: 66

(i) At the time of the offense, the offender was driving 67  
under a suspension or cancellation imposed under Chapter 4510. 68  
or any other provision of the Revised Code or was operating a 69  
motor vehicle or motorcycle, did not have a valid driver's 70  
license, commercial driver's license, temporary instruction 71  
permit, probationary license, or nonresident operating 72  
privilege, and was not eligible for renewal of the offender's 73  
driver's license or commercial driver's license without 74  
examination under section 4507.10 of the Revised Code. 75

(ii) The offender previously has been convicted of or 76  
pleaded guilty to a violation of division (A) (2), (3), or (4) of 77  
this section. 78

(iii) The offender previously has been convicted of or 79  
pleaded guilty to ~~any traffic-related homicide, manslaughter, or~~ 80  
~~assault offense~~ a violation of division (A) (2) or (3) of section 81  
2903.08 of the Revised Code. 82

(c) Aggravated vehicular homicide committed in violation 83  
of division (A) (1) of this section is a felony of the first 84  
degree, and the court shall sentence the offender to a mandatory 85  
prison term as provided in section 2929.142 of the Revised Code 86  
and described in division (E) of this section if any of the 87  
following apply: 88

(i) The offender previously has been convicted of or 89  
pleaded guilty to ~~three~~ one or more prior violations of section 90  
4511.19 of the Revised Code or of a substantially equivalent 91  
municipal ordinance within the previous ten years. 92

(ii) The offender previously has been convicted of or 93  
pleaded guilty to ~~three~~ one or more prior violations of division 94  
(A) of section 1547.11 of the Revised Code or of a substantially 95  
equivalent municipal ordinance within the previous ten years. 96

(iii) The offender previously has been convicted of or 97  
pleaded guilty to ~~three~~ one or more prior violations of division 98  
(A) (3) of section 4561.15 of the Revised Code or of a 99  
substantially equivalent municipal ordinance within the previous 100  
ten years. 101

(iv) The offender previously has been convicted of or 102  
pleaded guilty to ~~three~~ one or more prior violations of division 103  
(A) (1) of this section ~~within the previous ten years.~~ 104

(v) The offender previously has been convicted of or 105  
pleaded guilty to ~~three~~one or more prior violations of division 106  
(A) (1) of section 2903.08 of the Revised Code ~~within the~~ 107  
~~previous ten years.~~ 108

(vi) The offender previously has been convicted of or 109  
pleaded guilty to ~~three~~one or more prior violations of section 110  
2903.04 of the Revised Code ~~within the previous ten years in~~ 111  
circumstances in which division (D) of that section applied 112  
regarding the violations. 113

~~(vii) The offender previously has been convicted of or~~ 114  
~~pleaded guilty to three or more violations of any combination of~~ 115  
~~the offenses listed in division (B) (2) (c) (i), (ii), (iii), (iv),~~ 116  
~~(v), or (vi) of this section within the previous ten years.~~ 117

~~(viii)~~The offender previously has been convicted of or 118  
pleaded guilty to a ~~second or subsequent~~prior felony violation 119  
of division (A) of section 4511.19 of the Revised Code. 120

(d) In addition to any other sanctions imposed pursuant to 121  
division (B) (2) (a), (b), or (c) of this section for aggravated 122  
vehicular homicide committed in violation of division (A) (1) of 123  
this section, the court shall impose upon the offender a class 124  
one suspension of the offender's driver's license, commercial 125  
driver's license, temporary instruction permit, probationary 126  
license, or nonresident operating privilege as specified in 127  
division (A) (1) of section 4510.02 of the Revised Code. 128

Divisions (A) (1) to (3) of section 4510.54 of the Revised 129  
Code apply to a suspension imposed under division (B) (2) (d) of 130  
this section. 131

(e) Notwithstanding section 2929.18 of the Revised Code, 132  
and in addition to any other sanctions imposed pursuant to 133

division (B) (2) (a), (b), (c), or (d) of this section for 134  
aggravated vehicular homicide committed in violation of division 135  
(A) (1) of this section, the court shall impose upon the offender 136  
a fine of not more than twenty-five thousand dollars. 137

(3) Except as otherwise provided in this division, 138  
aggravated vehicular homicide committed in violation of division 139  
(A) (2) of this section is a felony of the third degree. 140  
Aggravated vehicular homicide committed in violation of division 141  
(A) (2) of this section is a felony of the second degree if, at 142  
the time of the offense, the offender was driving under a 143  
suspension or cancellation imposed under Chapter 4510. or any 144  
other provision of the Revised Code or was operating a motor 145  
vehicle or motorcycle, did not have a valid driver's license, 146  
commercial driver's license, temporary instruction permit, 147  
probationary license, or nonresident operating privilege, and 148  
was not eligible for renewal of the offender's driver's license 149  
or commercial driver's license without examination under section 150  
4507.10 of the Revised Code or if the offender previously has 151  
been convicted of or pleaded guilty to a violation of this 152  
section or any traffic-related homicide, manslaughter, or 153  
assault offense. The court shall impose a mandatory prison term 154  
on the offender when required by division (E) of this section. 155

In addition to any other sanctions imposed pursuant to 156  
this division for a violation of division (A) (2) of this 157  
section, the court shall impose upon the offender a class two 158  
suspension of the offender's driver's license, commercial 159  
driver's license, temporary instruction permit, probationary 160  
license, or nonresident operating privilege from the range 161  
specified in division (A) (2) of section 4510.02 of the Revised 162  
Code or, if the offender previously has been convicted of or 163  
pleaded guilty to a traffic-related murder, felonious assault, 164

or attempted murder offense, a class one suspension of the 165  
offender's driver's license, commercial driver's license, 166  
temporary instruction permit, probationary license, or 167  
nonresident operating privilege as specified in division (A)(1) 168  
of that section. 169

(C) Whoever violates division (A)(3) of this section is 170  
guilty of vehicular homicide. Except as otherwise provided in 171  
this division, vehicular homicide is a misdemeanor of the first 172  
degree. Vehicular homicide committed in violation of division 173  
(A)(3) of this section is a felony of the fourth degree if, at 174  
the time of the offense, the offender was driving under a 175  
suspension or cancellation imposed under Chapter 4510. or any 176  
other provision of the Revised Code or was operating a motor 177  
vehicle or motorcycle, did not have a valid driver's license, 178  
commercial driver's license, temporary instruction permit, 179  
probationary license, or nonresident operating privilege, and 180  
was not eligible for renewal of the offender's driver's license 181  
or commercial driver's license without examination under section 182  
4507.10 of the Revised Code or if the offender previously has 183  
been convicted of or pleaded guilty to a violation of this 184  
section or any traffic-related homicide, manslaughter, or 185  
assault offense. The court shall impose a mandatory jail term or 186  
a mandatory prison term on the offender when required by 187  
division (E) of this section. 188

In addition to any other sanctions imposed pursuant to 189  
this division, the court shall impose upon the offender a class 190  
four suspension of the offender's driver's license, commercial 191  
driver's license, temporary instruction permit, probationary 192  
license, or nonresident operating privilege from the range 193  
specified in division (A)(4) of section 4510.02 of the Revised 194  
Code, or, if the offender previously has been convicted of or 195

pleaded guilty to a violation of this section or any traffic- 196  
related homicide, manslaughter, or assault offense, a class 197  
three suspension of the offender's driver's license, commercial 198  
driver's license, temporary instruction permit, probationary 199  
license, or nonresident operating privilege from the range 200  
specified in division (A) (3) of that section, or, if the 201  
offender previously has been convicted of or pleaded guilty to a 202  
traffic-related murder, felonious assault, or attempted murder 203  
offense, a class two suspension of the offender's driver's 204  
license, commercial driver's license, temporary instruction 205  
permit, probationary license, or nonresident operating privilege 206  
as specified in division (A) (2) of that section. 207

(D) Whoever violates division (A) (4) of this section is 208  
guilty of vehicular manslaughter. Except as otherwise provided 209  
in this division, vehicular manslaughter is a misdemeanor of the 210  
second degree. Vehicular manslaughter is a misdemeanor of the 211  
first degree if, at the time of the offense, the offender was 212  
driving under a suspension or cancellation imposed under Chapter 213  
4510. or any other provision of the Revised Code or was 214  
operating a motor vehicle or motorcycle, did not have a valid 215  
driver's license, commercial driver's license, temporary 216  
instruction permit, probationary license, or nonresident 217  
operating privilege, and was not eligible for renewal of the 218  
offender's driver's license or commercial driver's license 219  
without examination under section 4507.10 of the Revised Code or 220  
if the offender previously has been convicted of or pleaded 221  
guilty to a violation of this section or any traffic-related 222  
homicide, manslaughter, or assault offense. 223

In addition to any other sanctions imposed pursuant to 224  
this division, the court shall impose upon the offender a class 225  
six suspension of the offender's driver's license, commercial 226

driver's license, temporary instruction permit, probationary 227  
license, or nonresident operating privilege from the range 228  
specified in division (A) (6) of section 4510.02 of the Revised 229  
Code or, if the offender previously has been convicted of or 230  
pleaded guilty to a violation of this section, any traffic- 231  
related homicide, manslaughter, or assault offense, or a 232  
traffic-related murder, felonious assault, or attempted murder 233  
offense, a class four suspension of the offender's driver's 234  
license, commercial driver's license, temporary instruction 235  
permit, probationary license, or nonresident operating privilege 236  
from the range specified in division (A) (4) of that section. 237

(E) (1) The court shall impose a mandatory prison term on 238  
an offender who is convicted of or pleads guilty to a violation 239  
of division (A) (1) of this section. Except as otherwise provided 240  
in this division, the mandatory prison term shall be a definite 241  
term from the range of prison terms provided in division (A) (1) 242  
(b) of section 2929.14 of the Revised Code for a felony of the 243  
first degree or from division (A) (2) (b) of that section for a 244  
felony of the second degree, whichever is applicable, except 245  
that if the violation is committed on or after ~~the effective~~ 246  
~~date of this amendment~~ March 22, 2019, the court shall impose as 247  
the minimum prison term for the offense a mandatory prison term 248  
that is one of the minimum terms prescribed for a felony of the 249  
first degree in division (A) (1) (a) of section 2929.14 of the 250  
Revised Code or one of the terms prescribed for a felony of the 251  
second degree in division (A) (2) (a) of that section, whichever 252  
is applicable. If division (B) (2) (c) ~~(i), (ii), (iii), (iv), (v),~~ 253  
~~(vi), (vii), or (viii)~~ of this section applies to an offender 254  
who is convicted of or pleads guilty to the violation of 255  
division (A) (1) of this section, the court shall impose the 256  
mandatory prison term pursuant to division (B) of section 257

2929.142 of the Revised Code. The court shall impose a mandatory 258  
jail term of at least fifteen days on an offender who is 259  
convicted of or pleads guilty to a misdemeanor violation of 260  
division (A) (3) (b) of this section and may impose upon the 261  
offender a longer jail term as authorized pursuant to section 262  
2929.24 of the Revised Code. 263

(2) The court shall impose a mandatory prison term on an 264  
offender who is convicted of or pleads guilty to a violation of 265  
division (A) (2) or (3) (a) of this section or a felony violation 266  
of division (A) (3) (b) of this section if either division (E) (2) 267  
(a) or (b) of this section applies. The mandatory prison term 268  
shall be a definite term from the range of prison terms provided 269  
in division (A) (3) (a) of section 2929.14 of the Revised Code for 270  
a felony of the third degree or from division (A) (4) of that 271  
section for a felony of the fourth degree, whichever is 272  
applicable. The court shall impose a mandatory prison term on an 273  
offender in a category described in this division if either of 274  
the following applies: 275

(a) The offender previously has been convicted of or 276  
pleaded guilty to a violation of this section or section 2903.08 277  
of the Revised Code. 278

(b) At the time of the offense, the offender was driving 279  
under suspension or cancellation under Chapter 4510. or any 280  
other provision of the Revised Code or was operating a motor 281  
vehicle or motorcycle, did not have a valid driver's license, 282  
commercial driver's license, temporary instruction permit, 283  
probationary license, or nonresident operating privilege, 284  
was not eligible for renewal of the offender's driver's license 285  
or commercial driver's license without examination under section 286  
4507.10 of the Revised Code. 287

(F) Divisions (A) (2) (b) and (3) (b) of this section do not 288  
apply in a particular construction zone unless signs of the type 289  
described in section 2903.081 of the Revised Code are erected in 290  
that construction zone in accordance with the guidelines and 291  
design specifications established by the director of 292  
transportation under section 5501.27 of the Revised Code. The 293  
failure to erect signs of the type described in section 2903.081 294  
of the Revised Code in a particular construction zone in 295  
accordance with those guidelines and design specifications does 296  
not limit or affect the application of division (A) (1), (A) (2) 297  
(a), (A) (3) (a), or (A) (4) of this section in that construction 298  
zone or the prosecution of any person who violates any of those 299  
divisions in that construction zone. 300

(G) (1) As used in this section: 301

(a) "Mandatory prison term" and "mandatory jail term" have 302  
the same meanings as in section 2929.01 of the Revised Code. 303

(b) "Traffic-related homicide, manslaughter, or assault 304  
offense" means a violation of section 2903.04 of the Revised 305  
Code in circumstances in which division (D) of that section 306  
applies, a violation of section 2903.06 or 2903.08 of the 307  
Revised Code, or a violation of section 2903.06, 2903.07, or 308  
2903.08 of the Revised Code as they existed prior to March 23, 309  
2000. 310

(c) "Construction zone" has the same meaning as in section 311  
5501.27 of the Revised Code. 312

(d) "Reckless operation offense" means a violation of 313  
section 4511.20 of the Revised Code or a municipal ordinance 314  
substantially equivalent to section 4511.20 of the Revised Code. 315

(e) "Speeding offense" means a violation of section 316

4511.21 of the Revised Code or a municipal ordinance pertaining 317  
to speed. 318

(f) "Traffic-related murder, felonious assault, or 319  
attempted murder offense" means a violation of section 2903.01 320  
or 2903.02 of the Revised Code in circumstances in which the 321  
offender used a motor vehicle as the means to commit the 322  
violation, a violation of division (A) (2) of section 2903.11 of 323  
the Revised Code in circumstances in which the deadly weapon 324  
used in the commission of the violation is a motor vehicle, or 325  
an attempt to commit aggravated murder or murder in violation of 326  
section 2923.02 of the Revised Code in circumstances in which 327  
the offender used a motor vehicle as the means to attempt to 328  
commit the aggravated murder or murder. 329

(g) "Motor vehicle" has the same meaning as in section 330  
4501.01 of the Revised Code. 331

(2) For the purposes of this section, when a penalty or 332  
suspension is enhanced because of a prior or current violation 333  
of a specified law or a prior or current specified offense, the 334  
reference to the violation of the specified law or the specified 335  
offense includes any violation of any substantially equivalent 336  
municipal ordinance, former law of this state, or current or 337  
former law of another state or the United States. 338

**Sec. 2929.142.** (A) Notwithstanding the definite prison 339  
terms and minimum prison terms specified in divisions (A) (1) (a) 340  
and (b) of section 2929.14 of the Revised Code for a felony of 341  
the first degree, if an offender is convicted of or pleads 342  
guilty to aggravated vehicular homicide in violation of division 343  
(A) (1) of section 2903.06 of the Revised Code and division (B) 344  
(2) (c) of that section applies, the court shall impose upon the 345  
offender a mandatory prison term of ten, eleven, twelve, 346

thirteen, fourteen, ~~or fifteen, sixteen, seventeen, eighteen,~~ 347  
~~nineteen, or twenty~~ years, determined as specified in division 348  
(B) of this section, ~~if any of the following apply:~~ 349

~~(1) The offender previously has been convicted of or~~ 350  
~~pleaded guilty to three or more prior violations of section~~ 351  
~~4511.19 of the Revised Code or of a substantially equivalent~~ 352  
~~municipal ordinance within the previous ten years.~~ 353

~~(2) The offender previously has been convicted of or~~ 354  
~~pleaded guilty to three or more prior violations of division (A)~~ 355  
~~of section 1547.11 of the Revised Code or of a substantially~~ 356  
~~equivalent municipal ordinance within the previous ten years.~~ 357

~~(3) The offender previously has been convicted of or~~ 358  
~~pleaded guilty to three or more prior violations of division (A)~~ 359  
~~(3) of section 4561.15 of the Revised Code or of a substantially~~ 360  
~~equivalent municipal ordinance within the previous ten years.~~ 361

~~(4) The offender previously has been convicted of or~~ 362  
~~pleaded guilty to three or more prior violations of division (A)~~ 363  
~~(1) of section 2903.06 of the Revised Code.~~ 364

~~(5) The offender previously has been convicted of or~~ 365  
~~pleaded guilty to three or more prior violations of division (A)~~ 366  
~~(1) of section 2903.08 of the Revised Code.~~ 367

~~(6) The offender previously has been convicted of or~~ 368  
~~pleaded guilty to three or more prior violations of section~~ 369  
~~2903.04 of the Revised Code in circumstances in which division~~ 370  
~~(D) of that section applied regarding the violations.~~ 371

~~(7) The offender previously has been convicted of or~~ 372  
~~pleaded guilty to three or more violations of any combination of~~ 373  
~~the offenses listed in division (A) (1), (2), (3), (4), (5), or~~ 374  
~~(6) of this section.~~ 375

~~(8) The offender previously has been convicted of or  
pleaded guilty to a second or subsequent felony violation of  
division (A) of section 4511.19 of the Revised Code.~~ 376  
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(B) The mandatory prison term required under division (A)  
of this section shall be as follows: 379  
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(1) If the aggravated vehicular homicide is committed  
prior to March 22, 2019, the court shall impose a definite term  
of ten, eleven, twelve, thirteen, fourteen, or fifteen years,  
except that if . 381  
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(2) If the aggravated vehicular homicide is committed on  
or after the effective date of this amendment March 22, 2019,  
but before the effective date of this amendment, the court shall  
impose as the minimum prison term for the offense under division  
(A) (1) (a) of section 2929.14 of the Revised Code a mandatory  
prison term that is ten, eleven, twelve, thirteen, fourteen, or  
fifteen years. 385  
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(3) If the aggravated vehicular homicide is committed on  
or after the effective date of this amendment, the court shall  
impose as the minimum prison term for the offense under division  
(A) (1) (a) of section 2929.14 of the Revised Code a mandatory  
prison term that is fifteen, sixteen, seventeen, eighteen,  
nineteen, or twenty years. 392  
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**Sec. 4511.19.** (A) (1) No person shall operate any vehicle,  
streetcar, or trackless trolley within this state, if, at the  
time of the operation, any of the following apply: 398  
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(a) The person is under the influence of alcohol, a drug  
of abuse, or a combination of them. 401  
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(b) The person has a concentration of eight-hundredths of  
one per cent or more but less than seventeen-hundredths of one 403  
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per cent by weight per unit volume of alcohol in the person's whole blood. 405  
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(c) The person has a concentration of ninety-six-thousandths of one per cent or more but less than two hundred four-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma. 407  
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(d) The person has a concentration of eight-hundredths of one gram or more but less than seventeen-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath. 411  
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(e) The person has a concentration of eleven-hundredths of one gram or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per one hundred milliliters of the person's urine. 415  
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(f) The person has a concentration of seventeen-hundredths of one per cent or more by weight per unit volume of alcohol in the person's whole blood. 419  
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(g) The person has a concentration of two hundred four-thousandths of one per cent or more by weight per unit volume of alcohol in the person's blood serum or plasma. 422  
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(h) The person has a concentration of seventeen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath. 425  
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(i) The person has a concentration of two hundred thirty-eight-thousandths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine. 428  
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(j) Except as provided in division (K) of this section, the person has a concentration of any of the following 431  
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controlled substances or metabolites of a controlled substance 433  
in the person's whole blood, blood serum or plasma, or urine 434  
that equals or exceeds any of the following: 435

(i) The person has a concentration of amphetamine in the 436  
person's urine of at least five hundred nanograms of amphetamine 437  
per milliliter of the person's urine or has a concentration of 438  
amphetamine in the person's whole blood or blood serum or plasma 439  
of at least one hundred nanograms of amphetamine per milliliter 440  
of the person's whole blood or blood serum or plasma. 441

(ii) The person has a concentration of cocaine in the 442  
person's urine of at least one hundred fifty nanograms of 443  
cocaine per milliliter of the person's urine or has a 444  
concentration of cocaine in the person's whole blood or blood 445  
serum or plasma of at least fifty nanograms of cocaine per 446  
milliliter of the person's whole blood or blood serum or plasma. 447

(iii) The person has a concentration of cocaine metabolite 448  
in the person's urine of at least one hundred fifty nanograms of 449  
cocaine metabolite per milliliter of the person's urine or has a 450  
concentration of cocaine metabolite in the person's whole blood 451  
or blood serum or plasma of at least fifty nanograms of cocaine 452  
metabolite per milliliter of the person's whole blood or blood 453  
serum or plasma. 454

(iv) The person has a concentration of heroin in the 455  
person's urine of at least two thousand nanograms of heroin per 456  
milliliter of the person's urine or has a concentration of 457  
heroin in the person's whole blood or blood serum or plasma of 458  
at least fifty nanograms of heroin per milliliter of the 459  
person's whole blood or blood serum or plasma. 460

(v) The person has a concentration of heroin metabolite 461

(6-monoacetyl morphine) in the person's urine of at least ten 462  
nanograms of heroin metabolite (6-monoacetyl morphine) per 463  
milliliter of the person's urine or has a concentration of 464  
heroin metabolite (6-monoacetyl morphine) in the person's whole 465  
blood or blood serum or plasma of at least ten nanograms of 466  
heroin metabolite (6-monoacetyl morphine) per milliliter of the 467  
person's whole blood or blood serum or plasma. 468

(vi) The person has a concentration of L.S.D. in the 469  
person's urine of at least twenty-five nanograms of L.S.D. per 470  
milliliter of the person's urine or a concentration of L.S.D. in 471  
the person's whole blood or blood serum or plasma of at least 472  
ten nanograms of L.S.D. per milliliter of the person's whole 473  
blood or blood serum or plasma. 474

(vii) The person has a concentration of marihuana in the 475  
person's urine of at least ten nanograms of marihuana per 476  
milliliter of the person's urine or has a concentration of 477  
marihuana in the person's whole blood or blood serum or plasma 478  
of at least two nanograms of marihuana per milliliter of the 479  
person's whole blood or blood serum or plasma. 480

(viii) Either of the following applies: 481

(I) The person is under the influence of alcohol, a drug 482  
of abuse, or a combination of them, and the person has a 483  
concentration of marihuana metabolite in the person's urine of 484  
at least fifteen nanograms of marihuana metabolite per 485  
milliliter of the person's urine or has a concentration of 486  
marihuana metabolite in the person's whole blood or blood serum 487  
or plasma of at least five nanograms of marihuana metabolite per 488  
milliliter of the person's whole blood or blood serum or plasma. 489

(II) The person has a concentration of marihuana 490

metabolite in the person's urine of at least thirty-five 491  
nanograms of marihuana metabolite per milliliter of the person's 492  
urine or has a concentration of marihuana metabolite in the 493  
person's whole blood or blood serum or plasma of at least fifty 494  
nanograms of marihuana metabolite per milliliter of the person's 495  
whole blood or blood serum or plasma. 496

(ix) The person has a concentration of methamphetamine in 497  
the person's urine of at least five hundred nanograms of 498  
methamphetamine per milliliter of the person's urine or has a 499  
concentration of methamphetamine in the person's whole blood or 500  
blood serum or plasma of at least one hundred nanograms of 501  
methamphetamine per milliliter of the person's whole blood or 502  
blood serum or plasma. 503

(x) The person has a concentration of phencyclidine in the 504  
person's urine of at least twenty-five nanograms of 505  
phencyclidine per milliliter of the person's urine or has a 506  
concentration of phencyclidine in the person's whole blood or 507  
blood serum or plasma of at least ten nanograms of phencyclidine 508  
per milliliter of the person's whole blood or blood serum or 509  
plasma. 510

(xi) The state board of pharmacy has adopted a rule 511  
pursuant to section 4729.041 of the Revised Code that specifies 512  
the amount of salvia divinorum and the amount of salvinorin A 513  
that constitute concentrations of salvia divinorum and 514  
salvinorin A in a person's urine, in a person's whole blood, or 515  
in a person's blood serum or plasma at or above which the person 516  
is impaired for purposes of operating any vehicle, streetcar, or 517  
trackless trolley within this state, the rule is in effect, and 518  
the person has a concentration of salvia divinorum or salvinorin 519  
A of at least that amount so specified by rule in the person's 520

urine, in the person's whole blood, or in the person's blood 521  
serum or plasma. 522

(2) No person who, within twenty years of the conduct 523  
described in division (A)(2)(a) of this section, previously has 524  
been convicted of or pleaded guilty to a violation of this 525  
division, a violation of division (A)(1) or (B) of this section, 526  
or any other equivalent offense shall do both of the following: 527

(a) Operate any vehicle, streetcar, or trackless trolley 528  
within this state while under the influence of alcohol, a drug 529  
of abuse, or a combination of them; 530

(b) Subsequent to being arrested for operating the 531  
vehicle, streetcar, or trackless trolley as described in 532  
division (A)(2)(a) of this section, being asked by a law 533  
enforcement officer to submit to a chemical test or tests under 534  
section 4511.191 of the Revised Code, and being advised by the 535  
officer in accordance with section 4511.192 of the Revised Code 536  
of the consequences of the person's refusal or submission to the 537  
test or tests, refuse to submit to the test or tests. 538

(B) No person under twenty-one years of age shall operate 539  
any vehicle, streetcar, or trackless trolley within this state, 540  
if, at the time of the operation, any of the following apply: 541

(1) The person has a concentration of at least two- 542  
hundredths of one per cent but less than eight-hundredths of one 543  
per cent by weight per unit volume of alcohol in the person's 544  
whole blood. 545

(2) The person has a concentration of at least three- 546  
hundredths of one per cent but less than ninety-six-thousandths 547  
of one per cent by weight per unit volume of alcohol in the 548  
person's blood serum or plasma. 549

(3) The person has a concentration of at least two- 550  
hundredths of one gram but less than eight-hundredths of one 551  
gram by weight of alcohol per two hundred ten liters of the 552  
person's breath. 553

(4) The person has a concentration of at least twenty- 554  
eight one-thousandths of one gram but less than eleven- 555  
hundredths of one gram by weight of alcohol per one hundred 556  
milliliters of the person's urine. 557

(C) In any proceeding arising out of one incident, a 558  
person may be charged with a violation of division (A) (1) (a) or 559  
(A) (2) and a violation of division (B) (1), (2), or (3) of this 560  
section, but the person may not be convicted of more than one 561  
violation of these divisions. 562

(D) (1) (a) In any criminal prosecution or juvenile court 563  
proceeding for a violation of division (A) (1) (a) of this section 564  
or for an equivalent offense that is vehicle-related, the result 565  
of any test of any blood or urine withdrawn and analyzed at any 566  
health care provider, as defined in section 2317.02 of the 567  
Revised Code, may be admitted with expert testimony to be 568  
considered with any other relevant and competent evidence in 569  
determining the guilt or innocence of the defendant. 570

(b) In any criminal prosecution or juvenile court 571  
proceeding for a violation of division (A) or (B) of this 572  
section or for an equivalent offense that is vehicle-related, 573  
the court may admit evidence on the concentration of alcohol, 574  
drugs of abuse, controlled substances, metabolites of a 575  
controlled substance, or a combination of them in the 576  
defendant's whole blood, blood serum or plasma, breath, urine, 577  
or other bodily substance at the time of the alleged violation 578  
as shown by chemical analysis of the substance withdrawn within 579

three hours of the time of the alleged violation. The three-hour 580  
time limit specified in this division regarding the admission of 581  
evidence does not extend or affect the two-hour time limit 582  
specified in division (A) of section 4511.192 of the Revised 583  
Code as the maximum period of time during which a person may 584  
consent to a chemical test or tests as described in that 585  
section. The court may admit evidence on the concentration of 586  
alcohol, drugs of abuse, or a combination of them as described 587  
in this division when a person submits to a blood, breath, 588  
urine, or other bodily substance test at the request of a law 589  
enforcement officer under section 4511.191 of the Revised Code 590  
or a blood or urine sample is obtained pursuant to a search 591  
warrant. Only a physician, a registered nurse, an emergency 592  
medical technician-intermediate, an emergency medical 593  
technician-paramedic, or a qualified technician, chemist, or 594  
phlebotomist shall withdraw a blood sample for the purpose of 595  
determining the alcohol, drug, controlled substance, metabolite 596  
of a controlled substance, or combination content of the whole 597  
blood, blood serum, or blood plasma. This limitation does not 598  
apply to the taking of breath or urine specimens. A person 599  
authorized to withdraw blood under this division may refuse to 600  
withdraw blood under this division, if in that person's opinion, 601  
the physical welfare of the person would be endangered by the 602  
withdrawing of blood. 603

The bodily substance withdrawn under division (D) (1) (b) of 604  
this section shall be analyzed in accordance with methods 605  
approved by the director of health by an individual possessing a 606  
valid permit issued by the director pursuant to section 3701.143 607  
of the Revised Code. 608

(c) As used in division (D) (1) (b) of this section, 609  
"emergency medical technician-intermediate" and "emergency 610

medical technician-paramedic" have the same meanings as in 611  
section 4765.01 of the Revised Code. 612

(2) In a criminal prosecution or juvenile court proceeding 613  
for a violation of division (A) of this section or for an 614  
equivalent offense that is vehicle-related, if there was at the 615  
time the bodily substance was withdrawn a concentration of less 616  
than the applicable concentration of alcohol specified in 617  
divisions (A) (1) (b), (c), (d), and (e) of this section or less 618  
than the applicable concentration of a listed controlled 619  
substance or a listed metabolite of a controlled substance 620  
specified for a violation of division (A) (1) (j) of this section, 621  
that fact may be considered with other competent evidence in 622  
determining the guilt or innocence of the defendant. This 623  
division does not limit or affect a criminal prosecution or 624  
juvenile court proceeding for a violation of division (B) of 625  
this section or for an equivalent offense that is substantially 626  
equivalent to that division. 627

(3) Upon the request of the person who was tested, the 628  
results of the chemical test shall be made available to the 629  
person or the person's attorney, immediately upon the completion 630  
of the chemical test analysis. 631

If the chemical test was obtained pursuant to division (D) 632  
(1) (b) of this section, the person tested may have a physician, 633  
a registered nurse, or a qualified technician, chemist, or 634  
phlebotomist of the person's own choosing administer a chemical 635  
test or tests, at the person's expense, in addition to any 636  
administered at the request of a law enforcement officer. If the 637  
person was under arrest as described in division (A) (5) of 638  
section 4511.191 of the Revised Code, the arresting officer 639  
shall advise the person at the time of the arrest that the 640

person may have an independent chemical test taken at the 641  
person's own expense. If the person was under arrest other than 642  
described in division (A) (5) of section 4511.191 of the Revised 643  
Code, the form to be read to the person to be tested, as 644  
required under section 4511.192 of the Revised Code, shall state 645  
that the person may have an independent test performed at the 646  
person's expense. The failure or inability to obtain an 647  
additional chemical test by a person shall not preclude the 648  
admission of evidence relating to the chemical test or tests 649  
taken at the request of a law enforcement officer. 650

(4) (a) As used in divisions (D) (4) (b) and (c) of this 651  
section, "national highway traffic safety administration" means 652  
the national highway traffic safety administration established 653  
as an administration of the United States department of 654  
transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105. 655

(b) In any criminal prosecution or juvenile court 656  
proceeding for a violation of division (A) or (B) of this 657  
section, of a municipal ordinance relating to operating a 658  
vehicle while under the influence of alcohol, a drug of abuse, 659  
or alcohol and a drug of abuse, or of a municipal ordinance 660  
relating to operating a vehicle with a prohibited concentration 661  
of alcohol, a controlled substance, or a metabolite of a 662  
controlled substance in the whole blood, blood serum or plasma, 663  
breath, or urine, if a law enforcement officer has administered 664  
a field sobriety test to the operator of the vehicle involved in 665  
the violation and if it is shown by clear and convincing 666  
evidence that the officer administered the test in substantial 667  
compliance with the testing standards for any reliable, 668  
credible, and generally accepted field sobriety tests that were 669  
in effect at the time the tests were administered, including, 670  
but not limited to, any testing standards then in effect that 671

were set by the national highway traffic safety administration, 672  
all of the following apply: 673

(i) The officer may testify concerning the results of the 674  
field sobriety test so administered. 675

(ii) The prosecution may introduce the results of the 676  
field sobriety test so administered as evidence in any 677  
proceedings in the criminal prosecution or juvenile court 678  
proceeding. 679

(iii) If testimony is presented or evidence is introduced 680  
under division (D) (4) (b) (i) or (ii) of this section and if the 681  
testimony or evidence is admissible under the Rules of Evidence, 682  
the court shall admit the testimony or evidence and the trier of 683  
fact shall give it whatever weight the trier of fact considers 684  
to be appropriate. 685

(c) Division (D) (4) (b) of this section does not limit or 686  
preclude a court, in its determination of whether the arrest of 687  
a person was supported by probable cause or its determination of 688  
any other matter in a criminal prosecution or juvenile court 689  
proceeding of a type described in that division, from 690  
considering evidence or testimony that is not otherwise 691  
disallowed by division (D) (4) (b) of this section. 692

(E) (1) Subject to division (E) (3) of this section, in any 693  
criminal prosecution or juvenile court proceeding for a 694  
violation of division (A) (1) (b), (c), (d), (e), (f), (g), (h), 695  
(i), or (j) or (B) (1), (2), (3), or (4) of this section or for 696  
an equivalent offense that is substantially equivalent to any of 697  
those divisions, a laboratory report from any laboratory 698  
personnel issued a permit by the department of health 699  
authorizing an analysis as described in this division that 700

contains an analysis of the whole blood, blood serum or plasma, 701  
breath, urine, or other bodily substance tested and that 702  
contains all of the information specified in this division shall 703  
be admitted as prima-facie evidence of the information and 704  
statements that the report contains. The laboratory report shall 705  
contain all of the following: 706

(a) The signature, under oath, of any person who performed 707  
the analysis; 708

(b) Any findings as to the identity and quantity of 709  
alcohol, a drug of abuse, a controlled substance, a metabolite 710  
of a controlled substance, or a combination of them that was 711  
found; 712

(c) A copy of a notarized statement by the laboratory 713  
director or a designee of the director that contains the name of 714  
each certified analyst or test performer involved with the 715  
report, the analyst's or test performer's employment 716  
relationship with the laboratory that issued the report, and a 717  
notation that performing an analysis of the type involved is 718  
part of the analyst's or test performer's regular duties; 719

(d) An outline of the analyst's or test performer's 720  
education, training, and experience in performing the type of 721  
analysis involved and a certification that the laboratory 722  
satisfies appropriate quality control standards in general and, 723  
in this particular analysis, under rules of the department of 724  
health. 725

(2) Notwithstanding any other provision of law regarding 726  
the admission of evidence, a report of the type described in 727  
division (E)(1) of this section is not admissible against the 728  
defendant to whom it pertains in any proceeding, other than a 729

preliminary hearing or a grand jury proceeding, unless the 730  
prosecutor has served a copy of the report on the defendant's 731  
attorney or, if the defendant has no attorney, on the defendant. 732

(3) A report of the type described in division (E)(1) of 733  
this section shall not be prima-facie evidence of the contents, 734  
identity, or amount of any substance if, within seven days after 735  
the defendant to whom the report pertains or the defendant's 736  
attorney receives a copy of the report, the defendant or the 737  
defendant's attorney demands the testimony of the person who 738  
signed the report. The judge in the case may extend the seven- 739  
day time limit in the interest of justice. 740

(F) Except as otherwise provided in this division, any 741  
physician, registered nurse, emergency medical technician- 742  
intermediate, emergency medical technician-paramedic, or 743  
qualified technician, chemist, or phlebotomist who withdraws 744  
blood from a person pursuant to this section or section 4511.191 745  
or 4511.192 of the Revised Code, and any hospital, first-aid 746  
station, or clinic at which blood is withdrawn from a person 747  
pursuant to this section or section 4511.191 or 4511.192 of the 748  
Revised Code, is immune from criminal liability and civil 749  
liability based upon a claim of assault and battery or any other 750  
claim that is not a claim of malpractice, for any act performed 751  
in withdrawing blood from the person. The immunity provided in 752  
this division also extends to an emergency medical service 753  
organization that employs an emergency medical technician- 754  
intermediate or emergency medical technician-paramedic who 755  
withdraws blood under this section. The immunity provided in 756  
this division is not available to a person who withdraws blood 757  
if the person engages in willful or wanton misconduct. 758

As used in this division, "emergency medical technician- 759

intermediate" and "emergency medical technician-paramedic" have 760  
the same meanings as in section 4765.01 of the Revised Code. 761

(G) (1) Whoever violates any provision of divisions (A) (1) 762  
(a) to (i) or (A) (2) of this section is guilty of operating a 763  
vehicle under the influence of alcohol, a drug of abuse, or a 764  
combination of them. Whoever violates division (A) (1) (j) of this 765  
section is guilty of operating a vehicle while under the 766  
influence of a listed controlled substance or a listed 767  
metabolite of a controlled substance. The court shall sentence 768  
the offender for either offense under Chapter 2929. of the 769  
Revised Code, except as otherwise authorized or required by 770  
divisions (G) (1) (a) to (e) of this section: 771

(a) Except as otherwise provided in division (G) (1) (b), 772  
(c), (d), or (e) of this section, the offender is guilty of a 773  
misdemeanor of the first degree, and the court shall sentence 774  
the offender to all of the following: 775

(i) If the sentence is being imposed for a violation of 776  
division (A) (1) (a), (b), (c), (d), (e), or (j) of this section, 777  
a mandatory jail term of three consecutive days. As used in this 778  
division, three consecutive days means seventy-two consecutive 779  
hours. The court may sentence an offender to both an 780  
intervention program and a jail term. The court may impose a 781  
jail term in addition to the three-day mandatory jail term or 782  
intervention program. However, in no case shall the cumulative 783  
jail term imposed for the offense exceed six months. 784

The court may suspend the execution of the three-day jail 785  
term under this division if the court, in lieu of that suspended 786  
term, places the offender under a community control sanction 787  
pursuant to section 2929.25 of the Revised Code and requires the 788  
offender to attend, for three consecutive days, a drivers' 789

intervention program certified under section 5119.38 of the Revised Code. The court also may suspend the execution of any part of the three-day jail term under this division if it places the offender under a community control sanction pursuant to section 2929.25 of the Revised Code for part of the three days, requires the offender to attend for the suspended part of the term a drivers' intervention program so certified, and sentences the offender to a jail term equal to the remainder of the three consecutive days that the offender does not spend attending the program. The court may require the offender, as a condition of community control and in addition to the required attendance at a drivers' intervention program, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Chapter 5119. of the Revised Code by the director of mental health and addiction services that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose on the offender any other conditions of community control that it considers necessary.

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

(ii) If the sentence is being imposed for a violation of division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this section, except as otherwise provided in this division, a

mandatory jail term of at least three consecutive days and a 821  
requirement that the offender attend, for three consecutive 822  
days, a drivers' intervention program that is certified pursuant 823  
to section 5119.38 of the Revised Code. As used in this 824  
division, three consecutive days means seventy-two consecutive 825  
hours. If the court determines that the offender is not 826  
conducive to treatment in a drivers' intervention program, if 827  
the offender refuses to attend a drivers' intervention program, 828  
or if the jail at which the offender is to serve the jail term 829  
imposed can provide a driver's intervention program, the court 830  
shall sentence the offender to a mandatory jail term of at least 831  
six consecutive days. 832

If the court grants unlimited driving privileges to a 833  
first-time offender under section 4510.022 of the Revised Code, 834  
all penalties imposed upon the offender by the court under 835  
division (G)(1)(a)(ii) of this section for the offense apply, 836  
except that the court shall suspend any mandatory or additional 837  
jail term imposed by the court under division (G)(1)(a)(ii) of 838  
this section upon granting unlimited driving privileges in 839  
accordance with section 4510.022 of the Revised Code. 840

The court may require the offender, under a community 841  
control sanction imposed under section 2929.25 of the Revised 842  
Code, to attend and satisfactorily complete any treatment or 843  
education programs that comply with the minimum standards 844  
adopted pursuant to Chapter 5119. of the Revised Code by the 845  
director of mental health and addiction services, in addition to 846  
the required attendance at drivers' intervention program, that 847  
the operators of the drivers' intervention program determine 848  
that the offender should attend and to report periodically to 849  
the court on the offender's progress in the programs. The court 850  
also may impose any other conditions of community control on the 851

offender that it considers necessary. 852

(iii) In all cases, a fine of not less than ~~three~~ seven 853  
hundred ~~seventy-five~~ fifty and not more than one thousand 854  
~~seventy-five~~ two hundred fifty dollars; 855

(iv) In all cases, a suspension of the offender's driver's 856  
or commercial driver's license or permit or nonresident 857  
operating privilege for a definite period of one to three years. 858  
The court may grant limited driving privileges relative to the 859  
suspension under sections 4510.021 and 4510.13 of the Revised 860  
Code. The court may grant unlimited driving privileges with an 861  
ignition interlock device relative to the suspension and may 862  
reduce the period of suspension as authorized under section 863  
4510.022 of the Revised Code. 864

(b) Except as otherwise provided in division (G)(1)(e) of 865  
this section, an offender who, within ten years of the offense, 866  
previously has been convicted of or pleaded guilty to one 867  
violation of division (A) or (B) of this section or one other 868  
equivalent offense is guilty of a misdemeanor of the first 869  
degree. The court shall sentence the offender to all of the 870  
following: 871

(i) If the sentence is being imposed for a violation of 872  
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, 873  
a mandatory jail term of ten consecutive days. The court shall 874  
impose the ten-day mandatory jail term under this division 875  
unless, subject to division (G)(3) of this section, it instead 876  
imposes a sentence under that division consisting of both a jail 877  
term and a term of house arrest with electronic monitoring, with 878  
continuous alcohol monitoring, or with both electronic 879  
monitoring and continuous alcohol monitoring. The court may 880  
impose a jail term in addition to the ten-day mandatory jail 881

term. The cumulative jail term imposed for the offense shall not 882  
exceed six months. 883

In addition to the jail term or the term of house arrest 884  
with electronic monitoring or continuous alcohol monitoring or 885  
both types of monitoring and jail term, the court shall require 886  
the offender to be assessed by a community addiction services 887  
provider that is authorized by section 5119.21 of the Revised 888  
Code, subject to division (I) of this section, and shall order 889  
the offender to follow the treatment recommendations of the 890  
services provider. The purpose of the assessment is to determine 891  
the degree of the offender's alcohol usage and to determine 892  
whether or not treatment is warranted. Upon the request of the 893  
court, the services provider shall submit the results of the 894  
assessment to the court, including all treatment recommendations 895  
and clinical diagnoses related to alcohol use. 896

(ii) If the sentence is being imposed for a violation of 897  
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 898  
section, except as otherwise provided in this division, a 899  
mandatory jail term of twenty consecutive days. The court shall 900  
impose the twenty-day mandatory jail term under this division 901  
unless, subject to division (G)(3) of this section, it instead 902  
imposes a sentence under that division consisting of both a jail 903  
term and a term of house arrest with electronic monitoring, with 904  
continuous alcohol monitoring, or with both electronic 905  
monitoring and continuous alcohol monitoring. The court may 906  
impose a jail term in addition to the twenty-day mandatory jail 907  
term. The cumulative jail term imposed for the offense shall not 908  
exceed six months. 909

In addition to the jail term or the term of house arrest 910  
with electronic monitoring or continuous alcohol monitoring or 911

both types of monitoring and jail term, the court shall require 912  
the offender to be assessed by a community addiction service 913  
provider that is authorized by section 5119.21 of the Revised 914  
Code, subject to division (I) of this section, and shall order 915  
the offender to follow the treatment recommendations of the 916  
services provider. The purpose of the assessment is to determine 917  
the degree of the offender's alcohol usage and to determine 918  
whether or not treatment is warranted. Upon the request of the 919  
court, the services provider shall submit the results of the 920  
assessment to the court, including all treatment recommendations 921  
and clinical diagnoses related to alcohol use. 922

(iii) In all cases, notwithstanding the fines set forth in 923  
Chapter 2929. of the Revised Code, a fine of not less than ~~five-~~ 924  
~~one thousand two hundred twenty-five~~ and not more than ~~one-two~~ 925  
thousand ~~six hundred twenty-five~~ dollars; 926

(iv) In all cases, a suspension of the offender's driver's 927  
license, commercial driver's license, temporary instruction 928  
permit, probationary license, or nonresident operating privilege 929  
for a definite period of one to seven years. The court may grant 930  
limited driving privileges relative to the suspension under 931  
sections 4510.021 and 4510.13 of the Revised Code. 932

(v) In all cases, if the vehicle is registered in the 933  
offender's name, immobilization of the vehicle involved in the 934  
offense for ninety days in accordance with section 4503.233 of 935  
the Revised Code and impoundment of the license plates of that 936  
vehicle for ninety days. 937

(c) Except as otherwise provided in division (G) (1) (e) of 938  
this section, an offender who, within ten years of the offense, 939  
previously has been convicted of or pleaded guilty to two 940  
violations of division (A) or (B) of this section or other 941

equivalent offenses is guilty of a misdemeanor. The court shall 942  
sentence the offender to all of the following: 943

(i) If the sentence is being imposed for a violation of 944  
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, 945  
a mandatory jail term of thirty consecutive days. The court 946  
shall impose the thirty-day mandatory jail term under this 947  
division unless, subject to division (G)(3) of this section, it 948  
instead imposes a sentence under that division consisting of 949  
both a jail term and a term of house arrest with electronic 950  
monitoring, with continuous alcohol monitoring, or with both 951  
electronic monitoring and continuous alcohol monitoring. The 952  
court may impose a jail term in addition to the thirty-day 953  
mandatory jail term. Notwithstanding the jail terms set forth in 954  
sections 2929.21 to 2929.28 of the Revised Code, the additional 955  
jail term shall not exceed one year, and the cumulative jail 956  
term imposed for the offense shall not exceed one year. 957

(ii) If the sentence is being imposed for a violation of 958  
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 959  
section, a mandatory jail term of sixty consecutive days. The 960  
court shall impose the sixty-day mandatory jail term under this 961  
division unless, subject to division (G)(3) of this section, it 962  
instead imposes a sentence under that division consisting of 963  
both a jail term and a term of house arrest with electronic 964  
monitoring, with continuous alcohol monitoring, or with both 965  
electronic monitoring and continuous alcohol monitoring. The 966  
court may impose a jail term in addition to the sixty-day 967  
mandatory jail term. Notwithstanding the jail terms set forth in 968  
sections 2929.21 to 2929.28 of the Revised Code, the additional 969  
jail term shall not exceed one year, and the cumulative jail 970  
term imposed for the offense shall not exceed one year. 971

(iii) In all cases, notwithstanding the fines set forth in 972  
Chapter 2929. of the Revised Code, a fine of not less than ~~eight-~~ 973  
~~hundred fifty two thousand~~ and not more than two thousand seven 974  
hundred fifty dollars; 975

(iv) In all cases, a suspension of the offender's driver's 976  
license, commercial driver's license, temporary instruction 977  
permit, probationary license, or nonresident operating privilege 978  
for a definite period of two to twelve years. The court may 979  
grant limited driving privileges relative to the suspension 980  
under sections 4510.021 and 4510.13 of the Revised Code. 981

(v) In all cases, if the vehicle is registered in the 982  
offender's name, criminal forfeiture of the vehicle involved in 983  
the offense in accordance with section 4503.234 of the Revised 984  
Code. Division (G) (6) of this section applies regarding any 985  
vehicle that is subject to an order of criminal forfeiture under 986  
this division. 987

(vi) In all cases, the court shall order the offender to 988  
participate with a community addiction services provider 989  
authorized by section 5119.21 of the Revised Code, subject to 990  
division (I) of this section, and shall order the offender to 991  
follow the treatment recommendations of the services provider. 992  
The operator of the services provider shall determine and assess 993  
the degree of the offender's alcohol dependency and shall make 994  
recommendations for treatment. Upon the request of the court, 995  
the services provider shall submit the results of the assessment 996  
to the court, including all treatment recommendations and 997  
clinical diagnoses related to alcohol use. 998

(d) Except as otherwise provided in division (G) (1) (e) of 999  
this section, an offender who, within ten years of the offense, 1000  
previously has been convicted of or pleaded guilty to three or 1001

four violations of division (A) or (B) of this section or other 1002  
equivalent offenses or an offender who, within twenty years of 1003  
the offense, previously has been convicted of or pleaded guilty 1004  
to five or more violations of that nature is guilty of a felony 1005  
of the fourth degree. The court shall sentence the offender to 1006  
all of the following: 1007

(i) If the sentence is being imposed for a violation of 1008  
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, 1009  
a mandatory prison term of one, two, three, four, or five years 1010  
as required by and in accordance with division (G)(2) of section 1011  
2929.13 of the Revised Code if the offender also is convicted of 1012  
or also pleads guilty to a specification of the type described 1013  
in section 2941.1413 of the Revised Code or, in the discretion 1014  
of the court, either a mandatory term of local incarceration of 1015  
sixty consecutive days in accordance with division (G)(1) of 1016  
section 2929.13 of the Revised Code or a mandatory prison term 1017  
of sixty consecutive days in accordance with division (G)(2) of 1018  
that section if the offender is not convicted of and does not 1019  
plead guilty to a specification of that type. If the court 1020  
imposes a mandatory term of local incarceration, it may impose a 1021  
jail term in addition to the sixty-day mandatory term, the 1022  
cumulative total of the mandatory term and the jail term for the 1023  
offense shall not exceed one year, and, except as provided in 1024  
division (A)(1) of section 2929.13 of the Revised Code, no 1025  
prison term is authorized for the offense. If the court imposes 1026  
a mandatory prison term, notwithstanding division (A)(4) of 1027  
section 2929.14 of the Revised Code, it also may sentence the 1028  
offender to a definite prison term that shall be not less than 1029  
six months and not more than thirty months and the prison terms 1030  
shall be imposed as described in division (G)(2) of section 1031  
2929.13 of the Revised Code. If the court imposes a mandatory 1032

prison term or mandatory prison term and additional prison term, 1033  
in addition to the term or terms so imposed, the court also may 1034  
sentence the offender to a community control sanction for the 1035  
offense, but the offender shall serve all of the prison terms so 1036  
imposed prior to serving the community control sanction. 1037

(ii) If the sentence is being imposed for a violation of 1038  
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1039  
section, a mandatory prison term of one, two, three, four, or 1040  
five years as required by and in accordance with division (G)(2) 1041  
of section 2929.13 of the Revised Code if the offender also is 1042  
convicted of or also pleads guilty to a specification of the 1043  
type described in section 2941.1413 of the Revised Code or, in 1044  
the discretion of the court, either a mandatory term of local 1045  
incarceration of one hundred twenty consecutive days in 1046  
accordance with division (G)(1) of section 2929.13 of the 1047  
Revised Code or a mandatory prison term of one hundred twenty 1048  
consecutive days in accordance with division (G)(2) of that 1049  
section if the offender is not convicted of and does not plead 1050  
guilty to a specification of that type. If the court imposes a 1051  
mandatory term of local incarceration, it may impose a jail term 1052  
in addition to the one hundred twenty-day mandatory term, the 1053  
cumulative total of the mandatory term and the jail term for the 1054  
offense shall not exceed one year, and, except as provided in 1055  
division (A)(1) of section 2929.13 of the Revised Code, no 1056  
prison term is authorized for the offense. If the court imposes 1057  
a mandatory prison term, notwithstanding division (A)(4) of 1058  
section 2929.14 of the Revised Code, it also may sentence the 1059  
offender to a definite prison term that shall be not less than 1060  
six months and not more than thirty months and the prison terms 1061  
shall be imposed as described in division (G)(2) of section 1062  
2929.13 of the Revised Code. If the court imposes a mandatory 1063

prison term or mandatory prison term and additional prison term, 1064  
in addition to the term or terms so imposed, the court also may 1065  
sentence the offender to a community control sanction for the 1066  
offense, but the offender shall serve all of the prison terms so 1067  
imposed prior to serving the community control sanction. 1068

(iii) In all cases, notwithstanding section 2929.18 of the 1069  
Revised Code, a fine of not less than ~~one~~two thousand three 1070  
hundred ~~fifty~~ nor more than ten thousand five hundred dollars; 1071

(iv) In all cases, a class two license suspension of the 1072  
offender's driver's license, commercial driver's license, 1073  
temporary instruction permit, probationary license, or 1074  
nonresident operating privilege from the range specified in 1075  
division (A)(2) of section 4510.02 of the Revised Code. The 1076  
court may grant limited driving privileges relative to the 1077  
suspension under sections 4510.021 and 4510.13 of the Revised 1078  
Code. 1079

(v) In all cases, if the vehicle is registered in the 1080  
offender's name, criminal forfeiture of the vehicle involved in 1081  
the offense in accordance with section 4503.234 of the Revised 1082  
Code. Division (G)(6) of this section applies regarding any 1083  
vehicle that is subject to an order of criminal forfeiture under 1084  
this division. 1085

(vi) In all cases, the court shall order the offender to 1086  
participate with a community addiction services provider 1087  
authorized by section 5119.21 of the Revised Code, subject to 1088  
division (I) of this section, and shall order the offender to 1089  
follow the treatment recommendations of the services provider. 1090  
The operator of the services provider shall determine and assess 1091  
the degree of the offender's alcohol dependency and shall make 1092  
recommendations for treatment. Upon the request of the court, 1093

the services provider shall submit the results of the assessment 1094  
to the court, including all treatment recommendations and 1095  
clinical diagnoses related to alcohol use. 1096

(vii) In all cases, if the court sentences the offender to 1097  
a mandatory term of local incarceration, in addition to the 1098  
mandatory term, the court, pursuant to section 2929.17 of the 1099  
Revised Code, may impose a term of house arrest with electronic 1100  
monitoring. The term shall not commence until after the offender 1101  
has served the mandatory term of local incarceration. 1102

(e) An offender who previously has been convicted of or 1103  
pleaded guilty to a violation of division (A) of this section 1104  
that was a felony, regardless of when the violation and the 1105  
conviction or guilty plea occurred, is guilty of a felony of the 1106  
third degree. The court shall sentence the offender to all of 1107  
the following: 1108

(i) If the offender is being sentenced for a violation of 1109  
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, 1110  
a mandatory prison term of one, two, three, four, or five years 1111  
as required by and in accordance with division (G)(2) of section 1112  
2929.13 of the Revised Code if the offender also is convicted of 1113  
or also pleads guilty to a specification of the type described 1114  
in section 2941.1413 of the Revised Code or a mandatory prison 1115  
term of sixty consecutive days in accordance with division (G) 1116  
(2) of section 2929.13 of the Revised Code if the offender is 1117  
not convicted of and does not plead guilty to a specification of 1118  
that type. The court may impose a prison term in addition to the 1119  
mandatory prison term. The cumulative total of a sixty-day 1120  
mandatory prison term and the additional prison term for the 1121  
offense shall not exceed five years. In addition to the 1122  
mandatory prison term or mandatory prison term and additional 1123

prison term the court imposes, the court also may sentence the 1124  
offender to a community control sanction for the offense, but 1125  
the offender shall serve all of the prison terms so imposed 1126  
prior to serving the community control sanction. 1127

(ii) If the sentence is being imposed for a violation of 1128  
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1129  
section, a mandatory prison term of one, two, three, four, or 1130  
five years as required by and in accordance with division (G)(2) 1131  
of section 2929.13 of the Revised Code if the offender also is 1132  
convicted of or also pleads guilty to a specification of the 1133  
type described in section 2941.1413 of the Revised Code or a 1134  
mandatory prison term of one hundred twenty consecutive days in 1135  
accordance with division (G)(2) of section 2929.13 of the 1136  
Revised Code if the offender is not convicted of and does not 1137  
plead guilty to a specification of that type. The court may 1138  
impose a prison term in addition to the mandatory prison term. 1139  
The cumulative total of a one hundred twenty-day mandatory 1140  
prison term and the additional prison term for the offense shall 1141  
not exceed five years. In addition to the mandatory prison term 1142  
or mandatory prison term and additional prison term the court 1143  
imposes, the court also may sentence the offender to a community 1144  
control sanction for the offense, but the offender shall serve 1145  
all of the prison terms so imposed prior to serving the 1146  
community control sanction. 1147

(iii) In all cases, notwithstanding section 2929.18 of the 1148  
Revised Code, a fine of not less than ~~one~~ two thousand three 1149  
hundred ~~fifty~~ nor more than ten thousand five hundred dollars; 1150

(iv) In all cases, a class two license suspension of the 1151  
offender's driver's license, commercial driver's license, 1152  
temporary instruction permit, probationary license, or 1153

nonresident operating privilege from the range specified in 1154  
division (A) (2) of section 4510.02 of the Revised Code. The 1155  
court may grant limited driving privileges relative to the 1156  
suspension under sections 4510.021 and 4510.13 of the Revised 1157  
Code. 1158

(v) In all cases, if the vehicle is registered in the 1159  
offender's name, criminal forfeiture of the vehicle involved in 1160  
the offense in accordance with section 4503.234 of the Revised 1161  
Code. Division (G) (6) of this section applies regarding any 1162  
vehicle that is subject to an order of criminal forfeiture under 1163  
this division. 1164

(vi) In all cases, the court shall order the offender to 1165  
participate with a community addiction services provider 1166  
authorized by section 5119.21 of the Revised Code, subject to 1167  
division (I) of this section, and shall order the offender to 1168  
follow the treatment recommendations of the services provider. 1169  
The operator of the services provider shall determine and assess 1170  
the degree of the offender's alcohol dependency and shall make 1171  
recommendations for treatment. Upon the request of the court, 1172  
the services provider shall submit the results of the assessment 1173  
to the court, including all treatment recommendations and 1174  
clinical diagnoses related to alcohol use. 1175

(2) An offender who is convicted of or pleads guilty to a 1176  
violation of division (A) of this section and who subsequently 1177  
seeks reinstatement of the driver's or occupational driver's 1178  
license or permit or nonresident operating privilege suspended 1179  
under this section as a result of the conviction or guilty plea 1180  
shall pay a reinstatement fee as provided in division (F) (2) of 1181  
section 4511.191 of the Revised Code. 1182

(3) If an offender is sentenced to a jail term under 1183

division (G) (1) (b) (i) or (ii) or (G) (1) (c) (i) or (ii) of this 1184  
section and if, within sixty days of sentencing of the offender, 1185  
the court issues a written finding on the record that, due to 1186  
the unavailability of space at the jail where the offender is 1187  
required to serve the term, the offender will not be able to 1188  
begin serving that term within the sixty-day period following 1189  
the date of sentencing, the court may impose an alternative 1190  
sentence under this division that includes a term of house 1191  
arrest with electronic monitoring, with continuous alcohol 1192  
monitoring, or with both electronic monitoring and continuous 1193  
alcohol monitoring. 1194

As an alternative to a mandatory jail term of ten 1195  
consecutive days required by division (G) (1) (b) (i) of this 1196  
section, the court, under this division, may sentence the 1197  
offender to five consecutive days in jail and not less than 1198  
eighteen consecutive days of house arrest with electronic 1199  
monitoring, with continuous alcohol monitoring, or with both 1200  
electronic monitoring and continuous alcohol monitoring. The 1201  
cumulative total of the five consecutive days in jail and the 1202  
period of house arrest with electronic monitoring, continuous 1203  
alcohol monitoring, or both types of monitoring shall not exceed 1204  
six months. The five consecutive days in jail do not have to be 1205  
served prior to or consecutively to the period of house arrest. 1206

As an alternative to the mandatory jail term of twenty 1207  
consecutive days required by division (G) (1) (b) (ii) of this 1208  
section, the court, under this division, may sentence the 1209  
offender to ten consecutive days in jail and not less than 1210  
thirty-six consecutive days of house arrest with electronic 1211  
monitoring, with continuous alcohol monitoring, or with both 1212  
electronic monitoring and continuous alcohol monitoring. The 1213  
cumulative total of the ten consecutive days in jail and the 1214

period of house arrest with electronic monitoring, continuous 1215  
alcohol monitoring, or both types of monitoring shall not exceed 1216  
six months. The ten consecutive days in jail do not have to be 1217  
served prior to or consecutively to the period of house arrest. 1218

As an alternative to a mandatory jail term of thirty 1219  
consecutive days required by division (G)(1)(c)(i) of this 1220  
section, the court, under this division, may sentence the 1221  
offender to fifteen consecutive days in jail and not less than 1222  
fifty-five consecutive days of house arrest with electronic 1223  
monitoring, with continuous alcohol monitoring, or with both 1224  
electronic monitoring and continuous alcohol monitoring. The 1225  
cumulative total of the fifteen consecutive days in jail and the 1226  
period of house arrest with electronic monitoring, continuous 1227  
alcohol monitoring, or both types of monitoring shall not exceed 1228  
one year. The fifteen consecutive days in jail do not have to be 1229  
served prior to or consecutively to the period of house arrest. 1230

As an alternative to the mandatory jail term of sixty 1231  
consecutive days required by division (G)(1)(c)(ii) of this 1232  
section, the court, under this division, may sentence the 1233  
offender to thirty consecutive days in jail and not less than 1234  
one hundred ten consecutive days of house arrest with electronic 1235  
monitoring, with continuous alcohol monitoring, or with both 1236  
electronic monitoring and continuous alcohol monitoring. The 1237  
cumulative total of the thirty consecutive days in jail and the 1238  
period of house arrest with electronic monitoring, continuous 1239  
alcohol monitoring, or both types of monitoring shall not exceed 1240  
one year. The thirty consecutive days in jail do not have to be 1241  
served prior to or consecutively to the period of house arrest. 1242

(4) If an offender's driver's or occupational driver's 1243  
license or permit or nonresident operating privilege is 1244

suspended under division (G) of this section and if section 1245  
4510.13 of the Revised Code permits the court to grant limited 1246  
driving privileges, the court may grant the limited driving 1247  
privileges in accordance with that section. If division (A) (7) 1248  
of that section requires that the court impose as a condition of 1249  
the privileges that the offender must display on the vehicle 1250  
that is driven subject to the privileges restricted license 1251  
plates that are issued under section 4503.231 of the Revised 1252  
Code, except as provided in division (B) of that section, the 1253  
court shall impose that condition as one of the conditions of 1254  
the limited driving privileges granted to the offender, except 1255  
as provided in division (B) of section 4503.231 of the Revised 1256  
Code. 1257

(5) Fines imposed under this section for a violation of 1258  
division (A) of this section shall be distributed as follows: 1259

(a) Twenty-five dollars of the fine imposed under division 1260  
(G) (1) (a) (iii), thirty-five dollars of the fine imposed under 1261  
division (G) (1) (b) (iii), one hundred twenty-three dollars of the 1262  
fine imposed under division (G) (1) (c) (iii), and two hundred ten 1263  
dollars of the fine imposed under division (G) (1) (d) (iii) or (e) 1264  
(iii) of this section shall be paid to an enforcement and 1265  
education fund established by the legislative authority of the 1266  
law enforcement agency in this state that primarily was 1267  
responsible for the arrest of the offender, as determined by the 1268  
court that imposes the fine. The agency shall use this share to 1269  
pay only those costs it incurs in enforcing this section or a 1270  
municipal OVI ordinance and in informing the public of the laws 1271  
governing the operation of a vehicle while under the influence 1272  
of alcohol, the dangers of the operation of a vehicle under the 1273  
influence of alcohol, and other information relating to the 1274  
operation of a vehicle under the influence of alcohol and the 1275

consumption of alcoholic beverages. 1276

(b) Fifty dollars of the fine imposed under division (G) 1277  
(1)(a)(iii) of this section shall be paid to the political 1278  
subdivision that pays the cost of housing the offender during 1279  
the offender's term of incarceration. If the offender is being 1280  
sentenced for a violation of division (A)(1)(a), (b), (c), (d), 1281  
(e), or (j) of this section and was confined as a result of the 1282  
offense prior to being sentenced for the offense but is not 1283  
sentenced to a term of incarceration, the fifty dollars shall be 1284  
paid to the political subdivision that paid the cost of housing 1285  
the offender during that period of confinement. The political 1286  
subdivision shall use the share under this division to pay or 1287  
reimburse incarceration or treatment costs it incurs in housing 1288  
or providing drug and alcohol treatment to persons who violate 1289  
this section or a municipal OVI ordinance, costs of any 1290  
immobilizing or disabling device used on the offender's vehicle, 1291  
and costs of electronic house arrest equipment needed for 1292  
persons who violate this section. 1293

(c) Twenty-five dollars of the fine imposed under division 1294  
(G)(1)(a)(iii) and fifty dollars of the fine imposed under 1295  
division (G)(1)(b)(iii) of this section shall be deposited into 1296  
the county or municipal indigent drivers' alcohol treatment fund 1297  
under the control of that court, as created by the county or 1298  
municipal corporation under division (F) of section 4511.191 of 1299  
the Revised Code. 1300

(d) One hundred fifteen dollars of the fine imposed under 1301  
division (G)(1)(b)(iii), two hundred seventy-seven dollars of 1302  
the fine imposed under division (G)(1)(c)(iii), and four hundred 1303  
forty dollars of the fine imposed under division (G)(1)(d)(iii) 1304  
or (e)(iii) of this section shall be paid to the political 1305

subdivision that pays the cost of housing the offender during 1306  
the offender's term of incarceration. The political subdivision 1307  
shall use this share to pay or reimburse incarceration or 1308  
treatment costs it incurs in housing or providing drug and 1309  
alcohol treatment to persons who violate this section or a 1310  
municipal OVI ordinance, costs for any immobilizing or disabling 1311  
device used on the offender's vehicle, and costs of electronic 1312  
house arrest equipment needed for persons who violate this 1313  
section. 1314

(e) Fifty dollars of the fine imposed under divisions (G) 1315  
(1) (a) (iii), (G) (1) (b) (iii), (G) (1) (c) (iii), (G) (1) (d) (iii), and 1316  
(G) (1) (e) (iii) of this section shall be deposited into the 1317  
special projects fund of the court in which the offender was 1318  
convicted and that is established under division (E) (1) of 1319  
section 2303.201, division (B) (1) of section 1901.26, or 1320  
division (B) (1) of section 1907.24 of the Revised Code, to be 1321  
used exclusively to cover the cost of immobilizing or disabling 1322  
devices, including certified ignition interlock devices, and 1323  
remote alcohol monitoring devices for indigent offenders who are 1324  
required by a judge to use either of these devices. If the court 1325  
in which the offender was convicted does not have a special 1326  
projects fund that is established under division (E) (1) of 1327  
section 2303.201, division (B) (1) of section 1901.26, or 1328  
division (B) (1) of section 1907.24 of the Revised Code, the 1329  
fifty dollars shall be deposited into the indigent drivers 1330  
interlock and alcohol monitoring fund under division (I) of 1331  
section 4511.191 of the Revised Code. 1332

(f) Seventy-five dollars of the fine imposed under 1333  
division (G) (1) (a) (iii), one hundred twenty-five dollars of the 1334  
fine imposed under division (G) (1) (b) (iii), two hundred fifty 1335  
dollars of the fine imposed under division (G) (1) (c) (iii), and 1336

five hundred dollars of the fine imposed under division (G) (1) 1337  
(d) (iii) or (e) (iii) of this section shall be transmitted to the 1338  
treasurer of state for deposit into the indigent defense support 1339  
fund established under section 120.08 of the Revised Code. 1340

(g) The balance of the fine imposed under division (G) (1) 1341  
(a) (iii), (b) (iii), (c) (iii), (d) (iii), or (e) (iii) of this 1342  
section shall be disbursed as otherwise provided by law. 1343

(6) If title to a motor vehicle that is subject to an 1344  
order of criminal forfeiture under division (G) (1) (c), (d), or 1345  
(e) of this section is assigned or transferred and division (B) 1346  
(2) or (3) of section 4503.234 of the Revised Code applies, in 1347  
addition to or independent of any other penalty established by 1348  
law, the court may fine the offender the value of the vehicle as 1349  
determined by publications of the national automobile dealers 1350  
association. The proceeds of any fine so imposed shall be 1351  
distributed in accordance with division (C) (2) of that section. 1352

(7) In all cases in which an offender is sentenced under 1353  
division (G) of this section, the offender shall provide the 1354  
court with proof of financial responsibility as defined in 1355  
section 4509.01 of the Revised Code. If the offender fails to 1356  
provide that proof of financial responsibility, the court, in 1357  
addition to any other penalties provided by law, may order 1358  
restitution pursuant to section 2929.18 or 2929.28 of the 1359  
Revised Code in an amount not exceeding five thousand dollars 1360  
for any economic loss arising from an accident or collision that 1361  
was the direct and proximate result of the offender's operation 1362  
of the vehicle before, during, or after committing the offense 1363  
for which the offender is sentenced under division (G) of this 1364  
section. 1365

(8) A court may order an offender to reimburse a law 1366

enforcement agency for any costs incurred by the agency with 1367  
respect to a chemical test or tests administered to the offender 1368  
if all of the following apply: 1369

(a) The offender is convicted of or pleads guilty to a 1370  
violation of division (A) of this section. 1371

(b) The test or tests were of the offender's whole blood, 1372  
blood serum or plasma, or urine. 1373

(c) The test or tests indicated that the offender had a 1374  
prohibited concentration of a controlled substance or a 1375  
metabolite of a controlled substance in the offender's whole 1376  
blood, blood serum or plasma, or urine at the time of the 1377  
offense. 1378

(9) A court shall warn any person who is convicted of or 1379  
who pleads guilty to a violation of division (A) of this section 1380  
or an equivalent offense that a subsequent violation of this 1381  
section or an equivalent offense that results in the death of 1382  
another or the unlawful termination of another's pregnancy may 1383  
result in the person being guilty of aggravated vehicular 1384  
homicide under section 2903.06 of the Revised Code. The court 1385  
shall warn the person of the applicable penalties for that 1386  
violation under sections 2903.06 and 2929.142 of the Revised 1387  
Code. 1388

(10) As used in division (G) of this section, "electronic 1389  
monitoring," "mandatory prison term," and "mandatory term of 1390  
local incarceration" have the same meanings as in section 1391  
2929.01 of the Revised Code. 1392

(H) Whoever violates division (B) of this section is 1393  
guilty of operating a vehicle after underage alcohol consumption 1394  
and shall be punished as follows: 1395

(1) Except as otherwise provided in division (H) (2) of 1396  
this section, the offender is guilty of a misdemeanor of the 1397  
fourth degree. In addition to any other sanction imposed for the 1398  
offense, the court shall impose a class six suspension of the 1399  
offender's driver's license, commercial driver's license, 1400  
temporary instruction permit, probationary license, or 1401  
nonresident operating privilege from the range specified in 1402  
division (A) (6) of section 4510.02 of the Revised Code. The 1403  
court may grant limited driving privileges relative to the 1404  
suspension under sections 4510.021 and 4510.13 of the Revised 1405  
Code. The court may grant unlimited driving privileges with an 1406  
ignition interlock device relative to the suspension and may 1407  
reduce the period of suspension as authorized under section 1408  
4510.022 of the Revised Code. If the court grants unlimited 1409  
driving privileges under section 4510.022 of the Revised Code, 1410  
the court shall suspend any jail term imposed under division (H) 1411  
(1) of this section as required under that section. 1412

(2) If, within one year of the offense, the offender 1413  
previously has been convicted of or pleaded guilty to one or 1414  
more violations of division (A) or (B) of this section or other 1415  
equivalent offenses, the offender is guilty of a misdemeanor of 1416  
the third degree. In addition to any other sanction imposed for 1417  
the offense, the court shall impose a class four suspension of 1418  
the offender's driver's license, commercial driver's license, 1419  
temporary instruction permit, probationary license, or 1420  
nonresident operating privilege from the range specified in 1421  
division (A) (4) of section 4510.02 of the Revised Code. The 1422  
court may grant limited driving privileges relative to the 1423  
suspension under sections 4510.021 and 4510.13 of the Revised 1424  
Code. 1425

(3) If the offender also is convicted of or also pleads 1426

guilty to a specification of the type described in section 1427  
2941.1416 of the Revised Code and if the court imposes a jail 1428  
term for the violation of division (B) of this section, the 1429  
court shall impose upon the offender an additional definite jail 1430  
term pursuant to division (E) of section 2929.24 of the Revised 1431  
Code. 1432

(4) The offender shall provide the court with proof of 1433  
financial responsibility as defined in section 4509.01 of the 1434  
Revised Code. If the offender fails to provide that proof of 1435  
financial responsibility, then, in addition to any other 1436  
penalties provided by law, the court may order restitution 1437  
pursuant to section 2929.28 of the Revised Code in an amount not 1438  
exceeding five thousand dollars for any economic loss arising 1439  
from an accident or collision that was the direct and proximate 1440  
result of the offender's operation of the vehicle before, 1441  
during, or after committing the violation of division (B) of 1442  
this section. 1443

(I) (1) No court shall sentence an offender to an alcohol 1444  
treatment program under this section unless the treatment 1445  
program complies with the minimum standards for alcohol 1446  
treatment programs adopted under Chapter 5119. of the Revised 1447  
Code by the director of mental health and addiction services. 1448

(2) An offender who stays in a drivers' intervention 1449  
program or in an alcohol treatment program under an order issued 1450  
under this section shall pay the cost of the stay in the 1451  
program. However, if the court determines that an offender who 1452  
stays in an alcohol treatment program under an order issued 1453  
under this section is unable to pay the cost of the stay in the 1454  
program, the court may order that the cost be paid from the 1455  
court's indigent drivers' alcohol treatment fund. 1456

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

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

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

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

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

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

Revised Code applies to this section. 1486

(N) (1) The Ohio Traffic Rules in effect on January 1, 1487  
2004, as adopted by the supreme court under authority of section 1488  
2937.46 of the Revised Code, do not apply to felony violations 1489  
of this section. Subject to division (N) (2) of this section, the 1490  
Rules of Criminal Procedure apply to felony violations of this 1491  
section. 1492

(2) If, on or after January 1, 2004, the supreme court 1493  
modifies the Ohio Traffic Rules to provide procedures to govern 1494  
felony violations of this section, the modified rules shall 1495  
apply to felony violations of this section. 1496

**Section 2.** That existing sections 2903.06, 2929.142, and 1497  
4511.19 of the Revised Code are hereby repealed. 1498