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Representatives Cupp, Rogers

Cosponsors: Representatives Becker, Butler, Carfagna, Dever, Faber, Gavarone, Ginter, Goodman, Hambley, Hill, Johnson, G., Riedel, Schaffer, Scherer, Slaby, Stein, Young, Manning, Rezabek, Conditt, Anielski, Antani, Antonio, Arndt, Ashford, Barnes, Blessing, Boyd, Brenner, Dean, DeVitis, Edwards, Fedor, Green, Greenspan, Hagan, Henne, Holmes, Householder, Huffman, Hughes, Ingram, Johnson, T., Koehler, Landis, Lanese, LaTourette, Leland, Lepore-Hagan, Lipps, McColley, Miller, O'Brien, Patterson, Patton, Pelanda, Perales, Reineke, Romanchuk, Ryan, Schuring, Seitz, Smith, R., Sprague, Sweeney, Thompson, West, Wiggam, Speaker Rosenberger

A BILL

To amend sections 2925.03 and 2925.11 of the 1
Revised Code to provide that in determining the 2
amount of cocaine for trafficking and possession 3
offenses, it also includes a compound, mixture, 4
preparation, or substance containing cocaine, 5
and to declare an emergency. 6

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

Section 1. That sections 2925.03 and 2925.11 of the 7
Revised Code be amended to read as follows: 8

Sec. 2925.03. (A) No person shall knowingly do any of the 9
following: 10

(1) Sell or offer to sell a controlled substance or a 11
controlled substance analog; 12

(2) Prepare for shipment, ship, transport, deliver, 13
prepare for distribution, or distribute a controlled substance 14
or a controlled substance analog, when the offender knows or has 15
reasonable cause to believe that the controlled substance or a 16
controlled substance analog is intended for sale or resale by 17
the offender or another person. 18

(B) This section does not apply to any of the following: 19

(1) Manufacturers, licensed health professionals 20
authorized to prescribe drugs, pharmacists, owners of 21
pharmacies, and other persons whose conduct is in accordance 22
with Chapters 3719., 4715., 4723., 4729., 4730., 4731., and 23
4741. of the Revised Code; 24

(2) If the offense involves an anabolic steroid, any 25
person who is conducting or participating in a research project 26
involving the use of an anabolic steroid if the project has been 27
approved by the United States food and drug administration; 28

(3) Any person who sells, offers for sale, prescribes, 29
dispenses, or administers for livestock or other nonhuman 30
species an anabolic steroid that is expressly intended for 31
administration through implants to livestock or other nonhuman 32
species and approved for that purpose under the "Federal Food, 33
Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, 34
as amended, and is sold, offered for sale, prescribed, 35
dispensed, or administered for that purpose in accordance with 36
that act. 37

(C) Whoever violates division (A) of this section is 38
guilty of one of the following: 39

(1) If the drug involved in the violation is any compound, 40
mixture, preparation, or substance included in schedule I or 41

schedule II, with the exception of marihuana, cocaine, L.S.D.,
heroin, hashish, and controlled substance analogs, whoever
violates division (A) of this section is guilty of aggravated
trafficking in drugs. The penalty for the offense shall be
determined as follows:

(a) Except as otherwise provided in division (C) (1) (b),
(c), (d), (e), or (f) of this section, aggravated trafficking in
drugs is a felony of the fourth degree, and division (C) of
section 2929.13 of the Revised Code applies in determining
whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C) (1) (c),
(d), (e), or (f) of this section, if the offense was committed
in the vicinity of a school or in the vicinity of a juvenile,
aggravated trafficking in drugs is a felony of the third degree,
and division (C) of section 2929.13 of the Revised Code applies
in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the
amount of the drug involved equals or exceeds the bulk amount
but is less than five times the bulk amount, aggravated
trafficking in drugs is a felony of the third degree, and,
except as otherwise provided in this division, there is a
presumption for a prison term for the offense. If aggravated
trafficking in drugs is a felony of the third degree under this
division and if the offender two or more times previously has
been convicted of or pleaded guilty to a felony drug abuse
offense, the court shall impose as a mandatory prison term one
of the prison terms prescribed for a felony of the third degree.
If the amount of the drug involved is within that range and if
the offense was committed in the vicinity of a school or in the
vicinity of a juvenile, aggravated trafficking in drugs is a

felony of the second degree, and the court shall impose as a 72
mandatory prison term one of the prison terms prescribed for a 73
felony of the second degree. 74

(d) Except as otherwise provided in this division, if the 75
amount of the drug involved equals or exceeds five times the 76
bulk amount but is less than fifty times the bulk amount, 77
aggravated trafficking in drugs is a felony of the second 78
degree, and the court shall impose as a mandatory prison term 79
one of the prison terms prescribed for a felony of the second 80
degree. If the amount of the drug involved is within that range 81
and if the offense was committed in the vicinity of a school or 82
in the vicinity of a juvenile, aggravated trafficking in drugs 83
is a felony of the first degree, and the court shall impose as a 84
mandatory prison term one of the prison terms prescribed for a 85
felony of the first degree. 86

(e) If the amount of the drug involved equals or exceeds 87
fifty times the bulk amount but is less than one hundred times 88
the bulk amount and regardless of whether the offense was 89
committed in the vicinity of a school or in the vicinity of a 90
juvenile, aggravated trafficking in drugs is a felony of the 91
first degree, and the court shall impose as a mandatory prison 92
term one of the prison terms prescribed for a felony of the 93
first degree. 94

(f) If the amount of the drug involved equals or exceeds 95
one hundred times the bulk amount and regardless of whether the 96
offense was committed in the vicinity of a school or in the 97
vicinity of a juvenile, aggravated trafficking in drugs is a 98
felony of the first degree, the offender is a major drug 99
offender, and the court shall impose as a mandatory prison term 100
the maximum prison term prescribed for a felony of the first 101

degree. 102

(2) If the drug involved in the violation is any compound, 103
mixture, preparation, or substance included in schedule III, IV, 104
or V, whoever violates division (A) of this section is guilty of 105
trafficking in drugs. The penalty for the offense shall be 106
determined as follows: 107

(a) Except as otherwise provided in division (C) (2) (b), 108
(c), (d), or (e) of this section, trafficking in drugs is a 109
felony of the fifth degree, and division (B) of section 2929.13 110
of the Revised Code applies in determining whether to impose a 111
prison term on the offender. 112

(b) Except as otherwise provided in division (C) (2) (c), 113
(d), or (e) of this section, if the offense was committed in the 114
vicinity of a school or in the vicinity of a juvenile, 115
trafficking in drugs is a felony of the fourth degree, and 116
division (C) of section 2929.13 of the Revised Code applies in 117
determining whether to impose a prison term on the offender. 118

(c) Except as otherwise provided in this division, if the 119
amount of the drug involved equals or exceeds the bulk amount 120
but is less than five times the bulk amount, trafficking in 121
drugs is a felony of the fourth degree, and division (B) of 122
section 2929.13 of the Revised Code applies in determining 123
whether to impose a prison term for the offense. If the amount 124
of the drug involved is within that range and if the offense was 125
committed in the vicinity of a school or in the vicinity of a 126
juvenile, trafficking in drugs is a felony of the third degree, 127
and there is a presumption for a prison term for the offense. 128

(d) Except as otherwise provided in this division, if the 129
amount of the drug involved equals or exceeds five times the 130

bulk amount but is less than fifty times the bulk amount, 131
trafficking in drugs is a felony of the third degree, and there 132
is a presumption for a prison term for the offense. If the 133
amount of the drug involved is within that range and if the 134
offense was committed in the vicinity of a school or in the 135
vicinity of a juvenile, trafficking in drugs is a felony of the 136
second degree, and there is a presumption for a prison term for 137
the offense. 138

(e) Except as otherwise provided in this division, if the 139
amount of the drug involved equals or exceeds fifty times the 140
bulk amount, trafficking in drugs is a felony of the second 141
degree, and the court shall impose as a mandatory prison term 142
one of the prison terms prescribed for a felony of the second 143
degree. If the amount of the drug involved equals or exceeds 144
fifty times the bulk amount and if the offense was committed in 145
the vicinity of a school or in the vicinity of a juvenile, 146
trafficking in drugs is a felony of the first degree, and the 147
court shall impose as a mandatory prison term one of the prison 148
terms prescribed for a felony of the first degree. 149

(3) If the drug involved in the violation is marihuana or 150
a compound, mixture, preparation, or substance containing 151
marihuana other than hashish, whoever violates division (A) of 152
this section is guilty of trafficking in marihuana. The penalty 153
for the offense shall be determined as follows: 154

(a) Except as otherwise provided in division (C) (3) (b), 155
(c), (d), (e), (f), (g), or (h) of this section, trafficking in 156
marihuana is a felony of the fifth degree, and division (B) of 157
section 2929.13 of the Revised Code applies in determining 158
whether to impose a prison term on the offender. 159

(b) Except as otherwise provided in division (C) (3) (c), 160

(d), (e), (f), (g), or (h) of this section, if the offense was 161
committed in the vicinity of a school or in the vicinity of a 162
juvenile, trafficking in marihuana is a felony of the fourth 163
degree, and division (B) of section 2929.13 of the Revised Code 164
applies in determining whether to impose a prison term on the 165
offender. 166

(c) Except as otherwise provided in this division, if the 167
amount of the drug involved equals or exceeds two hundred grams 168
but is less than one thousand grams, trafficking in marihuana is 169
a felony of the fourth degree, and division (B) of section 170
2929.13 of the Revised Code applies in determining whether to 171
impose a prison term on the offender. If the amount of the drug 172
involved is within that range and if the offense was committed 173
in the vicinity of a school or in the vicinity of a juvenile, 174
trafficking in marihuana is a felony of the third degree, and 175
division (C) of section 2929.13 of the Revised Code applies in 176
determining whether to impose a prison term on the offender. 177

(d) Except as otherwise provided in this division, if the 178
amount of the drug involved equals or exceeds one thousand grams 179
but is less than five thousand grams, trafficking in marihuana 180
is a felony of the third degree, and division (C) of section 181
2929.13 of the Revised Code applies in determining whether to 182
impose a prison term on the offender. If the amount of the drug 183
involved is within that range and if the offense was committed 184
in the vicinity of a school or in the vicinity of a juvenile, 185
trafficking in marihuana is a felony of the second degree, and 186
there is a presumption that a prison term shall be imposed for 187
the offense. 188

(e) Except as otherwise provided in this division, if the 189
amount of the drug involved equals or exceeds five thousand 190

grams but is less than twenty thousand grams, trafficking in 191
marihuana is a felony of the third degree, and there is a 192
presumption that a prison term shall be imposed for the offense. 193
If the amount of the drug involved is within that range and if 194
the offense was committed in the vicinity of a school or in the 195
vicinity of a juvenile, trafficking in marihuana is a felony of 196
the second degree, and there is a presumption that a prison term 197
shall be imposed for the offense. 198

(f) Except as otherwise provided in this division, if the 199
amount of the drug involved equals or exceeds twenty thousand 200
grams but is less than forty thousand grams, trafficking in 201
marihuana is a felony of the second degree, and the court shall 202
impose a mandatory prison term of five, six, seven, or eight 203
years. If the amount of the drug involved is within that range 204
and if the offense was committed in the vicinity of a school or 205
in the vicinity of a juvenile, trafficking in marihuana is a 206
felony of the first degree, and the court shall impose as a 207
mandatory prison term the maximum prison term prescribed for a 208
felony of the first degree. 209

(g) Except as otherwise provided in this division, if the 210
amount of the drug involved equals or exceeds forty thousand 211
grams, trafficking in marihuana is a felony of the second 212
degree, and the court shall impose as a mandatory prison term 213
the maximum prison term prescribed for a felony of the second 214
degree. If the amount of the drug involved equals or exceeds 215
forty thousand grams and if the offense was committed in the 216
vicinity of a school or in the vicinity of a juvenile, 217
trafficking in marihuana is a felony of the first degree, and 218
the court shall impose as a mandatory prison term the maximum 219
prison term prescribed for a felony of the first degree. 220

(h) Except as otherwise provided in this division, if the offense involves a gift of twenty grams or less of marihuana, trafficking in marihuana is a minor misdemeanor upon a first offense and a misdemeanor of the third degree upon a subsequent offense. If the offense involves a gift of twenty grams or less of marihuana and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third degree.

(4) If the drug involved in the violation is cocaine or a compound, mixture, preparation, or substance containing cocaine, whoever violates division (A) of this section is guilty of trafficking in cocaine. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C) (4) (b), (c), (d), (e), (f), or (g) of this section, trafficking in cocaine is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C) (4) (c), (d), (e), (f), or (g) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in cocaine is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds five grams but is less than ten grams ~~of cocaine~~, trafficking in cocaine is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a

prison term for the offense. If the amount of the drug involved 251
is within that range and if the offense was committed in the 252
vicinity of a school or in the vicinity of a juvenile, 253
trafficking in cocaine is a felony of the third degree, and 254
there is a presumption for a prison term for the offense. 255

(d) Except as otherwise provided in this division, if the 256
amount of the drug involved equals or exceeds ten grams but is 257
less than twenty grams ~~of cocaine~~, trafficking in cocaine is a 258
felony of the third degree, and, except as otherwise provided in 259
this division, there is a presumption for a prison term for the 260
offense. If trafficking in cocaine is a felony of the third 261
degree under this division and if the offender two or more times 262
previously has been convicted of or pleaded guilty to a felony 263
drug abuse offense, the court shall impose as a mandatory prison 264
term one of the prison terms prescribed for a felony of the 265
third degree. If the amount of the drug involved is within that 266
range and if the offense was committed in the vicinity of a 267
school or in the vicinity of a juvenile, trafficking in cocaine 268
is a felony of the second degree, and the court shall impose as 269
a mandatory prison term one of the prison terms prescribed for a 270
felony of the second degree. 271

(e) Except as otherwise provided in this division, if the 272
amount of the drug involved equals or exceeds twenty grams but 273
is less than twenty-seven grams ~~of cocaine~~, trafficking in 274
cocaine is a felony of the second degree, and the court shall 275
impose as a mandatory prison term one of the prison terms 276
prescribed for a felony of the second degree. If the amount of 277
the drug involved is within that range and if the offense was 278
committed in the vicinity of a school or in the vicinity of a 279
juvenile, trafficking in cocaine is a felony of the first 280
degree, and the court shall impose as a mandatory prison term 281

one of the prison terms prescribed for a felony of the first 282
degree. 283

(f) If the amount of the drug involved equals or exceeds 284
twenty-seven grams but is less than one hundred grams ~~of cocaine~~ 285
and regardless of whether the offense was committed in the 286
vicinity of a school or in the vicinity of a juvenile, 287
trafficking in cocaine is a felony of the first degree, and the 288
court shall impose as a mandatory prison term one of the prison 289
terms prescribed for a felony of the first degree. 290

(g) If the amount of the drug involved equals or exceeds 291
one hundred grams ~~of cocaine~~ and regardless of whether the 292
offense was committed in the vicinity of a school or in the 293
vicinity of a juvenile, trafficking in cocaine is a felony of 294
the first degree, the offender is a major drug offender, and the 295
court shall impose as a mandatory prison term the maximum prison 296
term prescribed for a felony of the first degree. 297

(5) If the drug involved in the violation is L.S.D. or a 298
compound, mixture, preparation, or substance containing L.S.D., 299
whoever violates division (A) of this section is guilty of 300
trafficking in L.S.D. The penalty for the offense shall be 301
determined as follows: 302

(a) Except as otherwise provided in division (C) (5) (b), 303
(c), (d), (e), (f), or (g) of this section, trafficking in 304
L.S.D. is a felony of the fifth degree, and division (B) of 305
section 2929.13 of the Revised Code applies in determining 306
whether to impose a prison term on the offender. 307

(b) Except as otherwise provided in division (C) (5) (c), 308
(d), (e), (f), or (g) of this section, if the offense was 309
committed in the vicinity of a school or in the vicinity of a 310

juvenile, trafficking in L.S.D. is a felony of the fourth 311
degree, and division (C) of section 2929.13 of the Revised Code 312
applies in determining whether to impose a prison term on the 313
offender. 314

(c) Except as otherwise provided in this division, if the 315
amount of the drug involved equals or exceeds ten unit doses but 316
is less than fifty unit doses of L.S.D. in a solid form or 317
equals or exceeds one gram but is less than five grams of L.S.D. 318
in a liquid concentrate, liquid extract, or liquid distillate 319
form, trafficking in L.S.D. is a felony of the fourth degree, 320
and division (B) of section 2929.13 of the Revised Code applies 321
in determining whether to impose a prison term for the offense. 322
If the amount of the drug involved is within that range and if 323
the offense was committed in the vicinity of a school or in the 324
vicinity of a juvenile, trafficking in L.S.D. is a felony of the 325
third degree, and there is a presumption for a prison term for 326
the offense. 327

(d) Except as otherwise provided in this division, if the 328
amount of the drug involved equals or exceeds fifty unit doses 329
but is less than two hundred fifty unit doses of L.S.D. in a 330
solid form or equals or exceeds five grams but is less than 331
twenty-five grams of L.S.D. in a liquid concentrate, liquid 332
extract, or liquid distillate form, trafficking in L.S.D. is a 333
felony of the third degree, and, except as otherwise provided in 334
this division, there is a presumption for a prison term for the 335
offense. If trafficking in L.S.D. is a felony of the third 336
degree under this division and if the offender two or more times 337
previously has been convicted of or pleaded guilty to a felony 338
drug abuse offense, the court shall impose as a mandatory prison 339
term one of the prison terms prescribed for a felony of the 340
third degree. If the amount of the drug involved is within that 341

range and if the offense was committed in the vicinity of a 342
school or in the vicinity of a juvenile, trafficking in L.S.D. 343
is a felony of the second degree, and the court shall impose as 344
a mandatory prison term one of the prison terms prescribed for a 345
felony of the second degree. 346

(e) Except as otherwise provided in this division, if the 347
amount of the drug involved equals or exceeds two hundred fifty 348
unit doses but is less than one thousand unit doses of L.S.D. in 349
a solid form or equals or exceeds twenty-five grams but is less 350
than one hundred grams of L.S.D. in a liquid concentrate, liquid 351
extract, or liquid distillate form, trafficking in L.S.D. is a 352
felony of the second degree, and the court shall impose as a 353
mandatory prison term one of the prison terms prescribed for a 354
felony of the second degree. If the amount of the drug involved 355
is within that range and if the offense was committed in the 356
vicinity of a school or in the vicinity of a juvenile, 357
trafficking in L.S.D. is a felony of the first degree, and the 358
court shall impose as a mandatory prison term one of the prison 359
terms prescribed for a felony of the first degree. 360

(f) If the amount of the drug involved equals or exceeds 361
one thousand unit doses but is less than five thousand unit 362
doses of L.S.D. in a solid form or equals or exceeds one hundred 363
grams but is less than five hundred grams of L.S.D. in a liquid 364
concentrate, liquid extract, or liquid distillate form and 365
regardless of whether the offense was committed in the vicinity 366
of a school or in the vicinity of a juvenile, trafficking in 367
L.S.D. is a felony of the first degree, and the court shall 368
impose as a mandatory prison term one of the prison terms 369
prescribed for a felony of the first degree. 370

(g) If the amount of the drug involved equals or exceeds 371

five thousand unit doses of L.S.D. in a solid form or equals or 372
exceeds five hundred grams of L.S.D. in a liquid concentrate, 373
liquid extract, or liquid distillate form and regardless of 374
whether the offense was committed in the vicinity of a school or 375
in the vicinity of a juvenile, trafficking in L.S.D. is a felony 376
of the first degree, the offender is a major drug offender, and 377
the court shall impose as a mandatory prison term the maximum 378
prison term prescribed for a felony of the first degree. 379

(6) If the drug involved in the violation is heroin or a 380
compound, mixture, preparation, or substance containing heroin, 381
whoever violates division (A) of this section is guilty of 382
trafficking in heroin. The penalty for the offense shall be 383
determined as follows: 384

(a) Except as otherwise provided in division (C) (6) (b), 385
(c), (d), (e), (f), or (g) of this section, trafficking in 386
heroin is a felony of the fifth degree, and division (B) of 387
section 2929.13 of the Revised Code applies in determining 388
whether to impose a prison term on the offender. 389

(b) Except as otherwise provided in division (C) (6) (c), 390
(d), (e), (f), or (g) of this section, if the offense was 391
committed in the vicinity of a school or in the vicinity of a 392
juvenile, trafficking in heroin is a felony of the fourth 393
degree, and division (C) of section 2929.13 of the Revised Code 394
applies in determining whether to impose a prison term on the 395
offender. 396

(c) Except as otherwise provided in this division, if the 397
amount of the drug involved equals or exceeds ten unit doses but 398
is less than fifty unit doses or equals or exceeds one gram but 399
is less than five grams, trafficking in heroin is a felony of 400
the fourth degree, and division (B) of section 2929.13 of the 401

Revised Code applies in determining whether to impose a prison 402
term for the offense. If the amount of the drug involved is 403
within that range and if the offense was committed in the 404
vicinity of a school or in the vicinity of a juvenile, 405
trafficking in heroin is a felony of the third degree, and there 406
is a presumption for a prison term for the offense. 407

(d) Except as otherwise provided in this division, if the 408
amount of the drug involved equals or exceeds fifty unit doses 409
but is less than one hundred unit doses or equals or exceeds 410
five grams but is less than ten grams, trafficking in heroin is 411
a felony of the third degree, and there is a presumption for a 412
prison term for the offense. If the amount of the drug involved 413
is within that range and if the offense was committed in the 414
vicinity of a school or in the vicinity of a juvenile, 415
trafficking in heroin is a felony of the second degree, and 416
there is a presumption for a prison term for the offense. 417

(e) Except as otherwise provided in this division, if the 418
amount of the drug involved equals or exceeds one hundred unit 419
doses but is less than five hundred unit doses or equals or 420
exceeds ten grams but is less than fifty grams, trafficking in 421
heroin is a felony of the second degree, and the court shall 422
impose as a mandatory prison term one of the prison terms 423
prescribed for a felony of the second degree. If the amount of 424
the drug involved is within that range and if the offense was 425
committed in the vicinity of a school or in the vicinity of a 426
juvenile, trafficking in heroin is a felony of the first degree, 427
and the court shall impose as a mandatory prison term one of the 428
prison terms prescribed for a felony of the first degree. 429

(f) If the amount of the drug involved equals or exceeds 430
five hundred unit doses but is less than one thousand unit doses 431

or equals or exceeds fifty grams but is less than one hundred 432
grams and regardless of whether the offense was committed in the 433
vicinity of a school or in the vicinity of a juvenile, 434
trafficking in heroin is a felony of the first degree, and the 435
court shall impose as a mandatory prison term one of the prison 436
terms prescribed for a felony of the first degree. 437

(g) If the amount of the drug involved equals or exceeds 438
one thousand unit doses or equals or exceeds one hundred grams 439
and regardless of whether the offense was committed in the 440
vicinity of a school or in the vicinity of a juvenile, 441
trafficking in heroin is a felony of the first degree, the 442
offender is a major drug offender, and the court shall impose as 443
a mandatory prison term the maximum prison term prescribed for a 444
felony of the first degree. 445

(7) If the drug involved in the violation is hashish or a 446
compound, mixture, preparation, or substance containing hashish, 447
whoever violates division (A) of this section is guilty of 448
trafficking in hashish. The penalty for the offense shall be 449
determined as follows: 450

(a) Except as otherwise provided in division (C) (7) (b), 451
(c), (d), (e), (f), or (g) of this section, trafficking in 452
hashish is a felony of the fifth degree, and division (B) of 453
section 2929.13 of the Revised Code applies in determining 454
whether to impose a prison term on the offender. 455

(b) Except as otherwise provided in division (C) (7) (c), 456
(d), (e), (f), or (g) of this section, if the offense was 457
committed in the vicinity of a school or in the vicinity of a 458
juvenile, trafficking in hashish is a felony of the fourth 459
degree, and division (B) of section 2929.13 of the Revised Code 460
applies in determining whether to impose a prison term on the 461

offender. 462

(c) Except as otherwise provided in this division, if the 463
amount of the drug involved equals or exceeds ten grams but is 464
less than fifty grams of hashish in a solid form or equals or 465
exceeds two grams but is less than ten grams of hashish in a 466
liquid concentrate, liquid extract, or liquid distillate form, 467
trafficking in hashish is a felony of the fourth degree, and 468
division (B) of section 2929.13 of the Revised Code applies in 469
determining whether to impose a prison term on the offender. If 470
the amount of the drug involved is within that range and if the 471
offense was committed in the vicinity of a school or in the 472
vicinity of a juvenile, trafficking in hashish is a felony of 473
the third degree, and division (C) of section 2929.13 of the 474
Revised Code applies in determining whether to impose a prison 475
term on the offender. 476

(d) Except as otherwise provided in this division, if the 477
amount of the drug involved equals or exceeds fifty grams but is 478
less than two hundred fifty grams of hashish in a solid form or 479
equals or exceeds ten grams but is less than fifty grams of 480
hashish in a liquid concentrate, liquid extract, or liquid 481
distillate form, trafficking in hashish is a felony of the third 482
degree, and division (C) of section 2929.13 of the Revised Code 483
applies in determining whether to impose a prison term on the 484
offender. If the amount of the drug involved is within that 485
range and if the offense was committed in the vicinity of a 486
school or in the vicinity of a juvenile, trafficking in hashish 487
is a felony of the second degree, and there is a presumption 488
that a prison term shall be imposed for the offense. 489

(e) Except as otherwise provided in this division, if the 490
amount of the drug involved equals or exceeds two hundred fifty 491

grams but is less than one thousand grams of hashish in a solid 492
form or equals or exceeds fifty grams but is less than two 493
hundred grams of hashish in a liquid concentrate, liquid 494
extract, or liquid distillate form, trafficking in hashish is a 495
felony of the third degree, and there is a presumption that a 496
prison term shall be imposed for the offense. If the amount of 497
the drug involved is within that range and if the offense was 498
committed in the vicinity of a school or in the vicinity of a 499
juvenile, trafficking in hashish is a felony of the second 500
degree, and there is a presumption that a prison term shall be 501
imposed for the offense. 502

(f) Except as otherwise provided in this division, if the 503
amount of the drug involved equals or exceeds one thousand grams 504
but is less than two thousand grams of hashish in a solid form 505
or equals or exceeds two hundred grams but is less than four 506
hundred grams of hashish in a liquid concentrate, liquid 507
extract, or liquid distillate form, trafficking in hashish is a 508
felony of the second degree, and the court shall impose a 509
mandatory prison term of five, six, seven, or eight years. If 510
the amount of the drug involved is within that range and if the 511
offense was committed in the vicinity of a school or in the 512
vicinity of a juvenile, trafficking in hashish is a felony of 513
the first degree, and the court shall impose as a mandatory 514
prison term the maximum prison term prescribed for a felony of 515
the first degree. 516

(g) Except as otherwise provided in this division, if the 517
amount of the drug involved equals or exceeds two thousand grams 518
of hashish in a solid form or equals or exceeds four hundred 519
grams of hashish in a liquid concentrate, liquid extract, or 520
liquid distillate form, trafficking in hashish is a felony of 521
the second degree, and the court shall impose as a mandatory 522

prison term the maximum prison term prescribed for a felony of 523
the second degree. If the amount of the drug involved equals or 524
exceeds two thousand grams of hashish in a solid form or equals 525
or exceeds four hundred grams of hashish in a liquid 526
concentrate, liquid extract, or liquid distillate form and if 527
the offense was committed in the vicinity of a school or in the 528
vicinity of a juvenile, trafficking in hashish is a felony of 529
the first degree, and the court shall impose as a mandatory 530
prison term the maximum prison term prescribed for a felony of 531
the first degree. 532

(8) If the drug involved in the violation is a controlled 533
substance analog or compound, mixture, preparation, or substance 534
that contains a controlled substance analog, whoever violates 535
division (A) of this section is guilty of trafficking in a 536
controlled substance analog. The penalty for the offense shall 537
be determined as follows: 538

(a) Except as otherwise provided in division (C) (8) (b), 539
(c), (d), (e), (f), or (g) of this section, trafficking in a 540
controlled substance analog is a felony of the fifth degree, and 541
division (C) of section 2929.13 of the Revised Code applies in 542
determining whether to impose a prison term on the offender. 543

(b) Except as otherwise provided in division (C) (8) (c), 544
(d), (e), (f), or (g) of this section, if the offense was 545
committed in the vicinity of a school or in the vicinity of a 546
juvenile, trafficking in a controlled substance analog is a 547
felony of the fourth degree, and division (C) of section 2929.13 548
of the Revised Code applies in determining whether to impose a 549
prison term on the offender. 550

(c) Except as otherwise provided in this division, if the 551
amount of the drug involved equals or exceeds ten grams but is 552

less than twenty grams, trafficking in a controlled substance 553
analog is a felony of the fourth degree, and division (B) of 554
section 2929.13 of the Revised Code applies in determining 555
whether to impose a prison term for the offense. If the amount 556
of the drug involved is within that range and if the offense was 557
committed in the vicinity of a school or in the vicinity of a 558
juvenile, trafficking in a controlled substance analog is a 559
felony of the third degree, and there is a presumption for a 560
prison term for the offense. 561

(d) Except as otherwise provided in this division, if the 562
amount of the drug involved equals or exceeds twenty grams but 563
is less than thirty grams, trafficking in a controlled substance 564
analog is a felony of the third degree, and there is a 565
presumption for a prison term for the offense. If the amount of 566
the drug involved is within that range and if the offense was 567
committed in the vicinity of a school or in the vicinity of a 568
juvenile, trafficking in a controlled substance analog is a 569
felony of the second degree, and there is a presumption for a 570
prison term for the offense. 571

(e) Except as otherwise provided in this division, if the 572
amount of the drug involved equals or exceeds thirty grams but 573
is less than forty grams, trafficking in a controlled substance 574
analog is a felony of the second degree, and the court shall 575
impose as a mandatory prison term one of the prison terms 576
prescribed for a felony of the second degree. If the amount of 577
the drug involved is within that range and if the offense was 578
committed in the vicinity of a school or in the vicinity of a 579
juvenile, trafficking in a controlled substance analog is a 580
felony of the first degree, and the court shall impose as a 581
mandatory prison term one of the prison terms prescribed for a 582
felony of the first degree. 583

(f) If the amount of the drug involved equals or exceeds 584
forty grams but is less than fifty grams and regardless of 585
whether the offense was committed in the vicinity of a school or 586
in the vicinity of a juvenile, trafficking in a controlled 587
substance analog is a felony of the first degree, and the court 588
shall impose as a mandatory prison term one of the prison terms 589
prescribed for a felony of the first degree. 590

(g) If the amount of the drug involved equals or exceeds 591
fifty grams and regardless of whether the offense was committed 592
in the vicinity of a school or in the vicinity of a juvenile, 593
trafficking in a controlled substance analog is a felony of the 594
first degree, the offender is a major drug offender, and the 595
court shall impose as a mandatory prison term the maximum prison 596
term prescribed for a felony of the first degree. 597

(D) In addition to any prison term authorized or required 598
by division (C) of this section and sections 2929.13 and 2929.14 599
of the Revised Code, and in addition to any other sanction 600
imposed for the offense under this section or sections 2929.11 601
to 2929.18 of the Revised Code, the court that sentences an 602
offender who is convicted of or pleads guilty to a violation of 603
division (A) of this section may suspend the driver's or 604
commercial driver's license or permit of the offender in 605
accordance with division (G) of this section. However, if the 606
offender pleaded guilty to or was convicted of a violation of 607
section 4511.19 of the Revised Code or a substantially similar 608
municipal ordinance or the law of another state or the United 609
States arising out of the same set of circumstances as the 610
violation, the court shall suspend the offender's driver's or 611
commercial driver's license or permit in accordance with 612
division (G) of this section. If applicable, the court also 613
shall do the following: 614

(1) If the violation of division (A) of this section is a
felony of the first, second, or third degree, the court shall
impose upon the offender the mandatory fine specified for the
offense under division (B) (1) of section 2929.18 of the Revised
Code unless, as specified in that division, the court determines
that the offender is indigent. Except as otherwise provided in
division (H) (1) of this section, a mandatory fine or any other
fine imposed for a violation of this section is subject to
division (F) of this section. If a person is charged with a
violation of this section that is a felony of the first, second,
or third degree, posts bail, and forfeits the bail, the clerk of
the court shall pay the forfeited bail pursuant to divisions (D)
(1) and (F) of this section, as if the forfeited bail was a fine
imposed for a violation of this section. If any amount of the
forfeited bail remains after that payment and if a fine is
imposed under division (H) (1) of this section, the clerk of the
court shall pay the remaining amount of the forfeited bail
pursuant to divisions (H) (2) and (3) of this section, as if that
remaining amount was a fine imposed under division (H) (1) of
this section.

(2) If the offender is a professionally licensed person,
the court immediately shall comply with section 2925.38 of the
Revised Code.

(E) When a person is charged with the sale of or offer to
sell a bulk amount or a multiple of a bulk amount of a
controlled substance, the jury, or the court trying the accused,
shall determine the amount of the controlled substance involved
at the time of the offense and, if a guilty verdict is returned,
shall return the findings as part of the verdict. In any such
case, it is unnecessary to find and return the exact amount of
the controlled substance involved, and it is sufficient if the

finding and return is to the effect that the amount of the 646
controlled substance involved is the requisite amount, or that 647
the amount of the controlled substance involved is less than the 648
requisite amount. 649

(F) (1) Notwithstanding any contrary provision of section 650
3719.21 of the Revised Code and except as provided in division 651
(H) of this section, the clerk of the court shall pay any 652
mandatory fine imposed pursuant to division (D) (1) of this 653
section and any fine other than a mandatory fine that is imposed 654
for a violation of this section pursuant to division (A) or (B) 655
(5) of section 2929.18 of the Revised Code to the county, 656
township, municipal corporation, park district, as created 657
pursuant to section 511.18 or 1545.04 of the Revised Code, or 658
state law enforcement agencies in this state that primarily were 659
responsible for or involved in making the arrest of, and in 660
prosecuting, the offender. However, the clerk shall not pay a 661
mandatory fine so imposed to a law enforcement agency unless the 662
agency has adopted a written internal control policy under 663
division (F) (2) of this section that addresses the use of the 664
fine moneys that it receives. Each agency shall use the 665
mandatory fines so paid to subsidize the agency's law 666
enforcement efforts that pertain to drug offenses, in accordance 667
with the written internal control policy adopted by the 668
recipient agency under division (F) (2) of this section. 669

(2) Prior to receiving any fine moneys under division (F) 670
(1) of this section or division (B) of section 2925.42 of the 671
Revised Code, a law enforcement agency shall adopt a written 672
internal control policy that addresses the agency's use and 673
disposition of all fine moneys so received and that provides for 674
the keeping of detailed financial records of the receipts of 675
those fine moneys, the general types of expenditures made out of 676

those fine moneys, and the specific amount of each general type 677
of expenditure. The policy shall not provide for or permit the 678
identification of any specific expenditure that is made in an 679
ongoing investigation. All financial records of the receipts of 680
those fine moneys, the general types of expenditures made out of 681
those fine moneys, and the specific amount of each general type 682
of expenditure by an agency are public records open for 683
inspection under section 149.43 of the Revised Code. 684
Additionally, a written internal control policy adopted under 685
this division is such a public record, and the agency that 686
adopted it shall comply with it. 687

(3) As used in division (F) of this section: 688

(a) "Law enforcement agencies" includes, but is not 689
limited to, the state board of pharmacy and the office of a 690
prosecutor. 691

(b) "Prosecutor" has the same meaning as in section 692
2935.01 of the Revised Code. 693

(G) (1) If the sentencing court suspends the offender's 694
driver's or commercial driver's license or permit under division 695
(D) of this section or any other provision of this chapter, the 696
court shall suspend the license, by order, for not more than 697
five years. If an offender's driver's or commercial driver's 698
license or permit is suspended pursuant to this division, the 699
offender, at any time after the expiration of two years from the 700
day on which the offender's sentence was imposed or from the day 701
on which the offender finally was released from a prison term 702
under the sentence, whichever is later, may file a motion with 703
the sentencing court requesting termination of the suspension; 704
upon the filing of such a motion and the court's finding of good 705
cause for the termination, the court may terminate the 706

suspension. 707

(2) Any offender who received a mandatory suspension of 708
the offender's driver's or commercial driver's license or permit 709
under this section prior to ~~the effective date of this amendment~~ 710
September 13, 2016, may file a motion with the sentencing court 711
requesting the termination of the suspension. However, an 712
offender who pleaded guilty to or was convicted of a violation 713
of section 4511.19 of the Revised Code or a substantially 714
similar municipal ordinance or law of another state or the 715
United States that arose out of the same set of circumstances as 716
the violation for which the offender's license or permit was 717
suspended under this section shall not file such a motion. 718

Upon the filing of a motion under division (G)(2) of this 719
section, the sentencing court, in its discretion, may terminate 720
the suspension. 721

(H)(1) In addition to any prison term authorized or 722
required by division (C) of this section and sections 2929.13 723
and 2929.14 of the Revised Code, in addition to any other 724
penalty or sanction imposed for the offense under this section 725
or sections 2929.11 to 2929.18 of the Revised Code, and in 726
addition to the forfeiture of property in connection with the 727
offense as prescribed in Chapter 2981. of the Revised Code, the 728
court that sentences an offender who is convicted of or pleads 729
guilty to a violation of division (A) of this section may impose 730
upon the offender an additional fine specified for the offense 731
in division (B)(4) of section 2929.18 of the Revised Code. A 732
fine imposed under division (H)(1) of this section is not 733
subject to division (F) of this section and shall be used solely 734
for the support of one or more eligible community addiction 735
services providers in accordance with divisions (H)(2) and (3) 736

of this section. 737

(2) The court that imposes a fine under division (H) (1) of 738
this section shall specify in the judgment that imposes the fine 739
one or more eligible community addiction services providers for 740
the support of which the fine money is to be used. No community 741
addiction services provider shall receive or use money paid or 742
collected in satisfaction of a fine imposed under division (H) 743
(1) of this section unless the services provider is specified in 744
the judgment that imposes the fine. No community addiction 745
services provider shall be specified in the judgment unless the 746
services provider is an eligible community addiction services 747
provider and, except as otherwise provided in division (H) (2) of 748
this section, unless the services provider is located in the 749
county in which the court that imposes the fine is located or in 750
a county that is immediately contiguous to the county in which 751
that court is located. If no eligible community addiction 752
services provider is located in any of those counties, the 753
judgment may specify an eligible community addiction services 754
provider that is located anywhere within this state. 755

(3) Notwithstanding any contrary provision of section 756
3719.21 of the Revised Code, the clerk of the court shall pay 757
any fine imposed under division (H) (1) of this section to the 758
eligible community addiction services provider specified 759
pursuant to division (H) (2) of this section in the judgment. The 760
eligible community addiction services provider that receives the 761
fine moneys shall use the moneys only for the alcohol and drug 762
addiction services identified in the application for 763
certification of services under section 5119.36 of the Revised 764
Code or in the application for a license under section 5119.391 765
of the Revised Code filed with the department of mental health 766
and addiction services by the community addiction services 767

provider specified in the judgment. 768

(4) Each community addiction services provider that 769
receives in a calendar year any fine moneys under division (H) 770
(3) of this section shall file an annual report covering that 771
calendar year with the court of common pleas and the board of 772
county commissioners of the county in which the services 773
provider is located, with the court of common pleas and the 774
board of county commissioners of each county from which the 775
services provider received the moneys if that county is 776
different from the county in which the services provider is 777
located, and with the attorney general. The community addiction 778
services provider shall file the report no later than the first 779
day of March in the calendar year following the calendar year in 780
which the services provider received the fine moneys. The report 781
shall include statistics on the number of persons served by the 782
community addiction services provider, identify the types of 783
alcohol and drug addiction services provided to those persons, 784
and include a specific accounting of the purposes for which the 785
fine moneys received were used. No information contained in the 786
report shall identify, or enable a person to determine the 787
identity of, any person served by the community addiction 788
services provider. Each report received by a court of common 789
pleas, a board of county commissioners, or the attorney general 790
is a public record open for inspection under section 149.43 of 791
the Revised Code. 792

(5) As used in divisions (H) (1) to (5) of this section: 793

(a) "Community addiction services provider" and "alcohol 794
and drug addiction services" have the same meanings as in 795
section 5119.01 of the Revised Code. 796

(b) "Eligible community addiction services provider" means 797

a community addiction services provider, as defined in section 798
5119.01 of the Revised Code, or a community addiction services 799
provider that maintains a methadone treatment program licensed 800
under section 5119.391 of the Revised Code. 801

(I) As used in this section, "drug" includes any substance 802
that is represented to be a drug. 803

(J) It is an affirmative defense to a charge of 804
trafficking in a controlled substance analog under division (C) 805
(8) of this section that the person charged with violating that 806
offense sold or offered to sell, or prepared for shipment, 807
shipped, transported, delivered, prepared for distribution, or 808
distributed an item described in division (HH) (2) (a), (b), or 809
(c) of section 3719.01 of the Revised Code. 810

Sec. 2925.11. (A) No person shall knowingly obtain, 811
possess, or use a controlled substance or a controlled substance 812
analog. 813

(B) (1) This section does not apply to any of the 814
following: 815

(a) Manufacturers, licensed health professionals 816
authorized to prescribe drugs, pharmacists, owners of 817
pharmacies, and other persons whose conduct was in accordance 818
with Chapters 3719., 4715., 4723., 4729., 4730., 4731., and 819
4741. of the Revised Code; 820

(b) If the offense involves an anabolic steroid, any 821
person who is conducting or participating in a research project 822
involving the use of an anabolic steroid if the project has been 823
approved by the United States food and drug administration; 824

(c) Any person who sells, offers for sale, prescribes, 825
dispenses, or administers for livestock or other nonhuman 826

species an anabolic steroid that is expressly intended for 827
administration through implants to livestock or other nonhuman 828
species and approved for that purpose under the "Federal Food, 829
Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, 830
as amended, and is sold, offered for sale, prescribed, 831
dispensed, or administered for that purpose in accordance with 832
that act; 833

(d) Any person who obtained the controlled substance 834
pursuant to a lawful prescription issued by a licensed health 835
professional authorized to prescribe drugs. 836

(2) (a) As used in division (B) (2) of this section: 837

(i) "Community addiction services provider" has the same 838
meaning as in section 5119.01 of the Revised Code. 839

(ii) "Community control sanction" and "drug treatment 840
program" have the same meanings as in section 2929.01 of the 841
Revised Code. 842

(iii) "Health care facility" has the same meaning as in 843
section 2919.16 of the Revised Code. 844

(iv) "Minor drug possession offense" means a violation of 845
this section that is a misdemeanor or a felony of the fifth 846
degree. 847

(v) "Post-release control sanction" has the same meaning 848
as in section 2967.28 of the Revised Code. 849

(vi) "Peace officer" has the same meaning as in section 850
2935.01 of the Revised Code. 851

(vii) "Public agency" has the same meaning as in section 852
2930.01 of the Revised Code. 853

(viii) "Qualified individual" means a person who is not on
community control or post-release control and is a person acting
in good faith who seeks or obtains medical assistance for
another person who is experiencing a drug overdose, a person who
experiences a drug overdose and who seeks medical assistance for
that overdose, or a person who is the subject of another person
seeking or obtaining medical assistance for that overdose as
described in division (B) (2) (b) of this section.

(ix) "Seek or obtain medical assistance" includes, but is
not limited to making a 9-1-1 call, contacting in person or by
telephone call an on-duty peace officer, or transporting or
presenting a person to a health care facility.

(b) Subject to division (B) (2) (f) of this section, a
qualified individual shall not be arrested, charged, prosecuted,
convicted, or penalized pursuant to this chapter for a minor
drug possession offense if all of the following apply:

(i) The evidence of the obtaining, possession, or use of
the controlled substance or controlled substance analog that
would be the basis of the offense was obtained as a result of
the qualified individual seeking the medical assistance or
experiencing an overdose and needing medical assistance.

(ii) Subject to division (B) (2) (g) of this section, within
thirty days after seeking or obtaining the medical assistance,
the qualified individual seeks and obtains a screening and
receives a referral for treatment from a community addiction
services provider or a properly credentialed addiction treatment
professional.

(iii) Subject to division (B) (2) (g) of this section, the
qualified individual who obtains a screening and receives a

referral for treatment under division (B) (2) (b) (ii) of this 883
section, upon the request of any prosecuting attorney, submits 884
documentation to the prosecuting attorney that verifies that the 885
qualified individual satisfied the requirements of that 886
division. The documentation shall be limited to the date and 887
time of the screening obtained and referral received. 888

(c) If a person is found to be in violation of any 889
community control sanction and if the violation is a result of 890
either of the following, the court shall first consider ordering 891
the person's participation or continued participation in a drug 892
treatment program or mitigating the penalty specified in section 893
2929.13, 2929.15, or 2929.25 of the Revised Code, whichever is 894
applicable, after which the court has the discretion either to 895
order the person's participation or continued participation in a 896
drug treatment program or to impose the penalty with the 897
mitigating factor specified in any of those applicable sections: 898

(i) Seeking or obtaining medical assistance in good faith 899
for another person who is experiencing a drug overdose; 900

(ii) Experiencing a drug overdose and seeking medical 901
assistance for that overdose or being the subject of another 902
person seeking or obtaining medical assistance for that overdose 903
as described in division (B) (2) (b) of this section. 904

(d) If a person is found to be in violation of any post- 905
release control sanction and if the violation is a result of 906
either of the following, the court or the parole board shall 907
first consider ordering the person's participation or continued 908
participation in a drug treatment program or mitigating the 909
penalty specified in section 2929.141 or 2967.28 of the Revised 910
Code, whichever is applicable, after which the court or the 911
parole board has the discretion either to order the person's 912

participation or continued participation in a drug treatment 913
program or to impose the penalty with the mitigating factor 914
specified in either of those applicable sections: 915

(i) Seeking or obtaining medical assistance in good faith 916
for another person who is experiencing a drug overdose; 917

(ii) Experiencing a drug overdose and seeking medical 918
assistance for that emergency or being the subject of another 919
person seeking or obtaining medical assistance for that overdose 920
as described in division (B) (2) (b) of this section. 921

(e) Nothing in division (B) (2) (b) of this section shall be 922
construed to do any of the following: 923

(i) Limit the admissibility of any evidence in connection 924
with the investigation or prosecution of a crime with regards to 925
a defendant who does not qualify for the protections of division 926
(B) (2) (b) of this section or with regards to any crime other 927
than a minor drug possession offense committed by a person who 928
qualifies for protection pursuant to division (B) (2) (b) of this 929
section for a minor drug possession offense; 930

(ii) Limit any seizure of evidence or contraband otherwise 931
permitted by law; 932

(iii) Limit or abridge the authority of a peace officer to 933
detain or take into custody a person in the course of an 934
investigation or to effectuate an arrest for any offense except 935
as provided in that division; 936

(iv) Limit, modify, or remove any immunity from liability 937
available pursuant to law in effect prior to ~~the effective date~~ 938
~~of this amendment~~ September 13, 2016, to any public agency or to 939
an employee of any public agency. 940

(f) Division (B) (2) (b) of this section does not apply to 941
any person who twice previously has been granted an immunity 942
under division (B) (2) (b) of this section. No person shall be 943
granted an immunity under division (B) (2) (b) of this section 944
more than two times. 945

(g) Nothing in this section shall compel any qualified 946
individual to disclose protected health information in a way 947
that conflicts with the requirements of the "Health Insurance 948
Portability and Accountability Act of 1996," 104 Pub. L. No. 949
191, 110 Stat. 2021, 42 U.S.C. 1320d et seq., as amended, and 950
regulations promulgated by the United States department of 951
health and human services to implement the act or the 952
requirements of 42 C.F.R. Part 2. 953

(C) Whoever violates division (A) of this section is 954
guilty of one of the following: 955

(1) If the drug involved in the violation is a compound, 956
mixture, preparation, or substance included in schedule I or II, 957
with the exception of marihuana, cocaine, L.S.D., heroin, 958
hashish, and controlled substance analogs, whoever violates 959
division (A) of this section is guilty of aggravated possession 960
of drugs. The penalty for the offense shall be determined as 961
follows: 962

(a) Except as otherwise provided in division (C) (1) (b), 963
(c), (d), or (e) of this section, aggravated possession of drugs 964
is a felony of the fifth degree, and division (B) of section 965
2929.13 of the Revised Code applies in determining whether to 966
impose a prison term on the offender. 967

(b) If the amount of the drug involved equals or exceeds 968
the bulk amount but is less than five times the bulk amount, 969

aggravated possession of drugs is a felony of the third degree, 970
and there is a presumption for a prison term for the offense. 971

(c) If the amount of the drug involved equals or exceeds 972
five times the bulk amount but is less than fifty times the bulk 973
amount, aggravated possession of drugs is a felony of the second 974
degree, and the court shall impose as a mandatory prison term 975
one of the prison terms prescribed for a felony of the second 976
degree. 977

(d) If the amount of the drug involved equals or exceeds 978
fifty times the bulk amount but is less than one hundred times 979
the bulk amount, aggravated possession of drugs is a felony of 980
the first degree, and the court shall impose as a mandatory 981
prison term one of the prison terms prescribed for a felony of 982
the first degree. 983

(e) If the amount of the drug involved equals or exceeds 984
one hundred times the bulk amount, aggravated possession of 985
drugs is a felony of the first degree, the offender is a major 986
drug offender, and the court shall impose as a mandatory prison 987
term the maximum prison term prescribed for a felony of the 988
first degree. 989

(2) If the drug involved in the violation is a compound, 990
mixture, preparation, or substance included in schedule III, IV, 991
or V, whoever violates division (A) of this section is guilty of 992
possession of drugs. The penalty for the offense shall be 993
determined as follows: 994

(a) Except as otherwise provided in division (C) (2) (b), 995
(c), or (d) of this section, possession of drugs is a 996
misdemeanor of the first degree or, if the offender previously 997
has been convicted of a drug abuse offense, a felony of the 998

fifth degree. 999

(b) If the amount of the drug involved equals or exceeds 1000
the bulk amount but is less than five times the bulk amount, 1001
possession of drugs is a felony of the fourth degree, and 1002
division (C) of section 2929.13 of the Revised Code applies in 1003
determining whether to impose a prison term on the offender. 1004

(c) If the amount of the drug involved equals or exceeds 1005
five times the bulk amount but is less than fifty times the bulk 1006
amount, possession of drugs is a felony of the third degree, and 1007
there is a presumption for a prison term for the offense. 1008

(d) If the amount of the drug involved equals or exceeds 1009
fifty times the bulk amount, possession of drugs is a felony of 1010
the second degree, and the court shall impose upon the offender 1011
as a mandatory prison term one of the prison terms prescribed 1012
for a felony of the second degree. 1013

(3) If the drug involved in the violation is marihuana or 1014
a compound, mixture, preparation, or substance containing 1015
marihuana other than hashish, whoever violates division (A) of 1016
this section is guilty of possession of marihuana. The penalty 1017
for the offense shall be determined as follows: 1018

(a) Except as otherwise provided in division (C) (3) (b), 1019
(c), (d), (e), (f), or (g) of this section, possession of 1020
marihuana is a minor misdemeanor. 1021

(b) If the amount of the drug involved equals or exceeds 1022
one hundred grams but is less than two hundred grams, possession 1023
of marihuana is a misdemeanor of the fourth degree. 1024

(c) If the amount of the drug involved equals or exceeds 1025
two hundred grams but is less than one thousand grams, 1026
possession of marihuana is a felony of the fifth degree, and 1027

division (B) of section 2929.13 of the Revised Code applies in 1028
determining whether to impose a prison term on the offender. 1029

(d) If the amount of the drug involved equals or exceeds 1030
one thousand grams but is less than five thousand grams, 1031
possession of marihuana is a felony of the third degree, and 1032
division (C) of section 2929.13 of the Revised Code applies in 1033
determining whether to impose a prison term on the offender. 1034

(e) If the amount of the drug involved equals or exceeds 1035
five thousand grams but is less than twenty thousand grams, 1036
possession of marihuana is a felony of the third degree, and 1037
there is a presumption that a prison term shall be imposed for 1038
the offense. 1039

(f) If the amount of the drug involved equals or exceeds 1040
twenty thousand grams but is less than forty thousand grams, 1041
possession of marihuana is a felony of the second degree, and 1042
the court shall impose a mandatory prison term of five, six, 1043
seven, or eight years. 1044

(g) If the amount of the drug involved equals or exceeds 1045
forty thousand grams, possession of marihuana is a felony of the 1046
second degree, and the court shall impose as a mandatory prison 1047
term the maximum prison term prescribed for a felony of the 1048
second degree. 1049

(4) If the drug involved in the violation is cocaine or a 1050
compound, mixture, preparation, or substance containing cocaine, 1051
whoever violates division (A) of this section is guilty of 1052
possession of cocaine. The penalty for the offense shall be 1053
determined as follows: 1054

(a) Except as otherwise provided in division (C) (4) (b), 1055
(c), (d), (e), or (f) of this section, possession of cocaine is 1056

a felony of the fifth degree, and division (B) of section 1057
2929.13 of the Revised Code applies in determining whether to 1058
impose a prison term on the offender. 1059

(b) If the amount of the drug involved equals or exceeds 1060
five grams but is less than ten grams~~of cocaine~~, possession of 1061
cocaine is a felony of the fourth degree, and division (B) of 1062
section 2929.13 of the Revised Code applies in determining 1063
whether to impose a prison term on the offender. 1064

(c) If the amount of the drug involved equals or exceeds 1065
ten grams but is less than twenty grams~~of cocaine~~, possession 1066
of cocaine is a felony of the third degree, and, except as 1067
otherwise provided in this division, there is a presumption for 1068
a prison term for the offense. If possession of cocaine is a 1069
felony of the third degree under this division and if the 1070
offender two or more times previously has been convicted of or 1071
pleaded guilty to a felony drug abuse offense, the court shall 1072
impose as a mandatory prison term one of the prison terms 1073
prescribed for a felony of the third degree. 1074

(d) If the amount of the drug involved equals or exceeds 1075
twenty grams but is less than twenty-seven grams~~of cocaine~~, 1076
possession of cocaine is a felony of the second degree, and the 1077
court shall impose as a mandatory prison term one of the prison 1078
terms prescribed for a felony of the second degree. 1079

(e) If the amount of the drug involved equals or exceeds 1080
twenty-seven grams but is less than one hundred grams~~of~~ 1081
~~cocaine~~, possession of cocaine is a felony of the first degree, 1082
and the court shall impose as a mandatory prison term one of the 1083
prison terms prescribed for a felony of the first degree. 1084

(f) If the amount of the drug involved equals or exceeds 1085

one hundred grams ~~of cocaine~~, possession of cocaine is a felony 1086
of the first degree, the offender is a major drug offender, and 1087
the court shall impose as a mandatory prison term the maximum 1088
prison term prescribed for a felony of the first degree. 1089

(5) If the drug involved in the violation is L.S.D., 1090
whoever violates division (A) of this section is guilty of 1091
possession of L.S.D. The penalty for the offense shall be 1092
determined as follows: 1093

(a) Except as otherwise provided in division (C) (5) (b), 1094
(c), (d), (e), or (f) of this section, possession of L.S.D. is a 1095
felony of the fifth degree, and division (B) of section 2929.13 1096
of the Revised Code applies in determining whether to impose a 1097
prison term on the offender. 1098

(b) If the amount of L.S.D. involved equals or exceeds ten 1099
unit doses but is less than fifty unit doses of L.S.D. in a 1100
solid form or equals or exceeds one gram but is less than five 1101
grams of L.S.D. in a liquid concentrate, liquid extract, or 1102
liquid distillate form, possession of L.S.D. is a felony of the 1103
fourth degree, and division (C) of section 2929.13 of the 1104
Revised Code applies in determining whether to impose a prison 1105
term on the offender. 1106

(c) If the amount of L.S.D. involved equals or exceeds 1107
fifty unit doses, but is less than two hundred fifty unit doses 1108
of L.S.D. in a solid form or equals or exceeds five grams but is 1109
less than twenty-five grams of L.S.D. in a liquid concentrate, 1110
liquid extract, or liquid distillate form, possession of L.S.D. 1111
is a felony of the third degree, and there is a presumption for 1112
a prison term for the offense. 1113

(d) If the amount of L.S.D. involved equals or exceeds two 1114

hundred fifty unit doses but is less than one thousand unit 1115
doses of L.S.D. in a solid form or equals or exceeds twenty-five 1116
grams but is less than one hundred grams of L.S.D. in a liquid 1117
concentrate, liquid extract, or liquid distillate form, 1118
possession of L.S.D. is a felony of the second degree, and the 1119
court shall impose as a mandatory prison term one of the prison 1120
terms prescribed for a felony of the second degree. 1121

(e) If the amount of L.S.D. involved equals or exceeds one 1122
thousand unit doses but is less than five thousand unit doses of 1123
L.S.D. in a solid form or equals or exceeds one hundred grams 1124
but is less than five hundred grams of L.S.D. in a liquid 1125
concentrate, liquid extract, or liquid distillate form, 1126
possession of L.S.D. is a felony of the first degree, and the 1127
court shall impose as a mandatory prison term one of the prison 1128
terms prescribed for a felony of the first degree. 1129

(f) If the amount of L.S.D. involved equals or exceeds 1130
five thousand unit doses of L.S.D. in a solid form or equals or 1131
exceeds five hundred grams of L.S.D. in a liquid concentrate, 1132
liquid extract, or liquid distillate form, possession of L.S.D. 1133
is a felony of the first degree, the offender is a major drug 1134
offender, and the court shall impose as a mandatory prison term 1135
the maximum prison term prescribed for a felony of the first 1136
degree. 1137

(6) If the drug involved in the violation is heroin or a 1138
compound, mixture, preparation, or substance containing heroin, 1139
whoever violates division (A) of this section is guilty of 1140
possession of heroin. The penalty for the offense shall be 1141
determined as follows: 1142

(a) Except as otherwise provided in division (C) (6) (b), 1143
(c), (d), (e), or (f) of this section, possession of heroin is a 1144

felony of the fifth degree, and division (B) of section 2929.13 1145
of the Revised Code applies in determining whether to impose a 1146
prison term on the offender. 1147

(b) If the amount of the drug involved equals or exceeds 1148
ten unit doses but is less than fifty unit doses or equals or 1149
exceeds one gram but is less than five grams, possession of 1150
heroin is a felony of the fourth degree, and division (C) of 1151
section 2929.13 of the Revised Code applies in determining 1152
whether to impose a prison term on the offender. 1153

(c) If the amount of the drug involved equals or exceeds 1154
fifty unit doses but is less than one hundred unit doses or 1155
equals or exceeds five grams but is less than ten grams, 1156
possession of heroin is a felony of the third degree, and there 1157
is a presumption for a prison term for the offense. 1158

(d) If the amount of the drug involved equals or exceeds 1159
one hundred unit doses but is less than five hundred unit doses 1160
or equals or exceeds ten grams but is less than fifty grams, 1161
possession of heroin is a felony of the second degree, and the 1162
court shall impose as a mandatory prison term one of the prison 1163
terms prescribed for a felony of the second degree. 1164

(e) If the amount of the drug involved equals or exceeds 1165
five hundred unit doses but is less than one thousand unit doses 1166
or equals or exceeds fifty grams but is less than one hundred 1167
grams, possession of heroin is a felony of the first degree, and 1168
the court shall impose as a mandatory prison term one of the 1169
prison terms prescribed for a felony of the first degree. 1170

(f) If the amount of the drug involved equals or exceeds 1171
one thousand unit doses or equals or exceeds one hundred grams, 1172
possession of heroin is a felony of the first degree, the 1173

offender is a major drug offender, and the court shall impose as 1174
a mandatory prison term the maximum prison term prescribed for a 1175
felony of the first degree. 1176

(7) If the drug involved in the violation is hashish or a 1177
compound, mixture, preparation, or substance containing hashish, 1178
whoever violates division (A) of this section is guilty of 1179
possession of hashish. The penalty for the offense shall be 1180
determined as follows: 1181

(a) Except as otherwise provided in division (C) (7) (b), 1182
(c), (d), (e), (f), or (g) of this section, possession of 1183
hashish is a minor misdemeanor. 1184

(b) If the amount of the drug involved equals or exceeds 1185
five grams but is less than ten grams of hashish in a solid form 1186
or equals or exceeds one gram but is less than two grams of 1187
hashish in a liquid concentrate, liquid extract, or liquid 1188
distillate form, possession of hashish is a misdemeanor of the 1189
fourth degree. 1190

(c) If the amount of the drug involved equals or exceeds 1191
ten grams but is less than fifty grams of hashish in a solid 1192
form or equals or exceeds two grams but is less than ten grams 1193
of hashish in a liquid concentrate, liquid extract, or liquid 1194
distillate form, possession of hashish is a felony of the fifth 1195
degree, and division (B) of section 2929.13 of the Revised Code 1196
applies in determining whether to impose a prison term on the 1197
offender. 1198

(d) If the amount of the drug involved equals or exceeds 1199
fifty grams but is less than two hundred fifty grams of hashish 1200
in a solid form or equals or exceeds ten grams but is less than 1201
fifty grams of hashish in a liquid concentrate, liquid extract, 1202

or liquid distillate form, possession of hashish is a felony of 1203
the third degree, and division (C) of section 2929.13 of the 1204
Revised Code applies in determining whether to impose a prison 1205
term on the offender. 1206

(e) If the amount of the drug involved equals or exceeds 1207
two hundred fifty grams but is less than one thousand grams of 1208
hashish in a solid form or equals or exceeds fifty grams but is 1209
less than two hundred grams of hashish in a liquid concentrate, 1210
liquid extract, or liquid distillate form, possession of hashish 1211
is a felony of the third degree, and there is a presumption that 1212
a prison term shall be imposed for the offense. 1213

(f) If the amount of the drug involved equals or exceeds 1214
one thousand grams but is less than two thousand grams of 1215
hashish in a solid form or equals or exceeds two hundred grams 1216
but is less than four hundred grams of hashish in a liquid 1217
concentrate, liquid extract, or liquid distillate form, 1218
possession of hashish is a felony of the second degree, and the 1219
court shall impose a mandatory prison term of five, six, seven, 1220
or eight years. 1221

(g) If the amount of the drug involved equals or exceeds 1222
two thousand grams of hashish in a solid form or equals or 1223
exceeds four hundred grams of hashish in a liquid concentrate, 1224
liquid extract, or liquid distillate form, possession of hashish 1225
is a felony of the second degree, and the court shall impose as 1226
a mandatory prison term the maximum prison term prescribed for a 1227
felony of the second degree. 1228

(8) If the drug involved is a controlled substance analog 1229
or compound, mixture, preparation, or substance that contains a 1230
controlled substance analog, whoever violates division (A) of 1231
this section is guilty of possession of a controlled substance 1232

analog. The penalty for the offense shall be determined as 1233
follows: 1234

(a) Except as otherwise provided in division (C) (8) (b), 1235
(c), (d), (e), or (f) of this section, possession of a 1236
controlled substance analog is a felony of the fifth degree, and 1237
division (B) of section 2929.13 of the Revised Code applies in 1238
determining whether to impose a prison term on the offender. 1239

(b) If the amount of the drug involved equals or exceeds 1240
ten grams but is less than twenty grams, possession of a 1241
controlled substance analog is a felony of the fourth degree, 1242
and there is a presumption for a prison term for the offense. 1243

(c) If the amount of the drug involved equals or exceeds 1244
twenty grams but is less than thirty grams, possession of a 1245
controlled substance analog is a felony of the third degree, and 1246
there is a presumption for a prison term for the offense. 1247

(d) If the amount of the drug involved equals or exceeds 1248
thirty grams but is less than forty grams, possession of a 1249
controlled substance analog is a felony of the second degree, 1250
and the court shall impose as a mandatory prison term one of the 1251
prison terms prescribed for a felony of the second degree. 1252

(e) If the amount of the drug involved equals or exceeds 1253
forty grams but is less than fifty grams, possession of a 1254
controlled substance analog is a felony of the first degree, and 1255
the court shall impose as a mandatory prison term one of the 1256
prison terms prescribed for a felony of the first degree. 1257

(f) If the amount of the drug involved equals or exceeds 1258
fifty grams, possession of a controlled substance analog is a 1259
felony of the first degree, the offender is a major drug 1260
offender, and the court shall impose as a mandatory prison term 1261

the maximum prison term prescribed for a felony of the first 1262
degree. 1263

(D) Arrest or conviction for a minor misdemeanor violation 1264
of this section does not constitute a criminal record and need 1265
not be reported by the person so arrested or convicted in 1266
response to any inquiries about the person's criminal record, 1267
including any inquiries contained in any application for 1268
employment, license, or other right or privilege, or made in 1269
connection with the person's appearance as a witness. 1270

(E) In addition to any prison term or jail term authorized 1271
or required by division (C) of this section and sections 1272
2929.13, 2929.14, 2929.22, 2929.24, and 2929.25 of the Revised 1273
Code and in addition to any other sanction that is imposed for 1274
the offense under this section, sections 2929.11 to 2929.18, or 1275
sections 2929.21 to 2929.28 of the Revised Code, the court that 1276
sentences an offender who is convicted of or pleads guilty to a 1277
violation of division (A) of this section may suspend the 1278
offender's driver's or commercial driver's license or permit for 1279
not more than five years. However, if the offender pleaded 1280
guilty to or was convicted of a violation of section 4511.19 of 1281
the Revised Code or a substantially similar municipal ordinance 1282
or the law of another state or the United States arising out of 1283
the same set of circumstances as the violation, the court shall 1284
suspend the offender's driver's or commercial driver's license 1285
or permit for not more than five years. If applicable, the court 1286
also shall do the following: 1287

(1) (a) If the violation is a felony of the first, second, 1288
or third degree, the court shall impose upon the offender the 1289
mandatory fine specified for the offense under division (B) (1) 1290
of section 2929.18 of the Revised Code unless, as specified in 1291

that division, the court determines that the offender is 1292
indigent. 1293

(b) Notwithstanding any contrary provision of section 1294
3719.21 of the Revised Code, the clerk of the court shall pay a 1295
mandatory fine or other fine imposed for a violation of this 1296
section pursuant to division (A) of section 2929.18 of the 1297
Revised Code in accordance with and subject to the requirements 1298
of division (F) of section 2925.03 of the Revised Code. The 1299
agency that receives the fine shall use the fine as specified in 1300
division (F) of section 2925.03 of the Revised Code. 1301

(c) If a person is charged with a violation of this 1302
section that is a felony of the first, second, or third degree, 1303
posts bail, and forfeits the bail, the clerk shall pay the 1304
forfeited bail pursuant to division (E) (1) (b) of this section as 1305
if it were a mandatory fine imposed under division (E) (1) (a) of 1306
this section. 1307

(2) If the offender is a professionally licensed person, 1308
in addition to any other sanction imposed for a violation of 1309
this section, the court immediately shall comply with section 1310
2925.38 of the Revised Code. 1311

(F) It is an affirmative defense, as provided in section 1312
2901.05 of the Revised Code, to a charge of a fourth degree 1313
felony violation under this section that the controlled 1314
substance that gave rise to the charge is in an amount, is in a 1315
form, is prepared, compounded, or mixed with substances that are 1316
not controlled substances in a manner, or is possessed under any 1317
other circumstances, that indicate that the substance was 1318
possessed solely for personal use. Notwithstanding any contrary 1319
provision of this section, if, in accordance with section 1320
2901.05 of the Revised Code, an accused who is charged with a 1321

fourth degree felony violation of division (C) (2), (4), (5), or 1322
(6) of this section sustains the burden of going forward with 1323
evidence of and establishes by a preponderance of the evidence 1324
the affirmative defense described in this division, the accused 1325
may be prosecuted for and may plead guilty to or be convicted of 1326
a misdemeanor violation of division (C) (2) of this section or a 1327
fifth degree felony violation of division (C) (4), (5), or (6) of 1328
this section respectively. 1329

(G) When a person is charged with possessing a bulk amount 1330
or multiple of a bulk amount, division (E) of section 2925.03 of 1331
the Revised Code applies regarding the determination of the 1332
amount of the controlled substance involved at the time of the 1333
offense. 1334

(H) It is an affirmative defense to a charge of possession 1335
of a controlled substance analog under division (C) (8) of this 1336
section that the person charged with violating that offense 1337
obtained, possessed, or used an item described in division (HH) 1338
(2) (a), (b), or (c) of section 3719.01 of the Revised Code. 1339

(I) Any offender who received a mandatory suspension of 1340
the offender's driver's or commercial driver's license or permit 1341
under this section prior to ~~the effective date of this amendment~~ 1342
September 13, 2016, may file a motion with the sentencing court 1343
requesting the termination of the suspension. However, an 1344
offender who pleaded guilty to or was convicted of a violation 1345
of section 4511.19 of the Revised Code or a substantially 1346
similar municipal ordinance or law of another state or the 1347
United States that arose out of the same set of circumstances as 1348
the violation for which the offender's license or permit was 1349
suspended under this section shall not file such a motion. 1350

Upon the filing of a motion under division (I) of this 1351

section, the sentencing court, in its discretion, may terminate 1352
the suspension. 1353

Section 2. That existing sections 2925.03 and 2925.11 of 1354
the Revised Code are hereby repealed. 1355

Section 3. The General Assembly is aware of the Ohio 1356
Supreme Court's holding in *State v. Gonzales*, __ Ohio St.3d __, 1357
2016-Ohio-8319. It was not the intent of the General Assembly to 1358
require the State, in prosecuting cocaine offenses involving 1359
mixed substances, to prove that the weight of the cocaine meets 1360
the statutory threshold, excluding the weight of any filler 1361
materials used in the mixture. 1362

Section 4. Section 2925.03 of the Revised Code is 1363
presented in this act as a composite of the section as amended 1364
by Am. Sub. H.B. 64, H.B. 171, and Sub. S.B. 204, all of the 1365
131st General Assembly. The General Assembly, applying the 1366
principle stated in division (B) of section 1.52 of the Revised 1367
Code that amendments are to be harmonized if reasonably capable 1368
of simultaneous operation, finds that the composite is the 1369
resulting version of the section in effect prior to the 1370
effective date of the section as presented in this act. 1371

Section 2925.11 of the Revised Code is presented in this 1372
act as a composite of the section as amended by Sub. H.B. 110, 1373
H.B. 171, and Sub. S.B. 204, all of the 131st General Assembly. 1374
The General Assembly, applying the principle stated in division 1375
(B) of section 1.52 of the Revised Code that amendments are to 1376
be harmonized if reasonably capable of simultaneous operation, 1377
finds that the composite is the resulting version of the section 1378
in effect prior to the effective date of the section as 1379
presented in this act. 1380

Section 5. This act is hereby declared to be an emergency 1381
measure necessary for the immediate preservation of the public 1382
peace, health, and safety. The reason for such necessity is to 1383
ensure that the penalty structure that applied to trafficking 1384
and possession of cocaine prior to the Ohio Supreme Court's 1385
holding in *State v. Gonzales*, ___ Ohio St.3d ___, 2016-Ohio- 1386
8319, will continue to be valid. Therefore, this act shall go 1387
into immediate effect. 1388