

# AN ACT

To amend sections 109.71, 109.751, 109.77, 121.04, 145.01, 145.332, 154.01, 154.22, 742.63, 903.01, 1501.011, 1501.012, 1501.02, 1501.07, 1501.09, 1501.11, 1501.12, 1501.13, 1501.14, 1501.45, 1503.011, 1503.012, 1503.03, 1503.05, 1503.09, 1503.10, 1503.11, 1503.14, 1503.141, 1503.15, 1503.18, 1506.35, 1509.73, 1509.78, 1514.10, 1519.03, 1519.04, 1520.02, 1520.03, 1533.89, 1541.02, 1541.031, 1541.032, 1541.04, 1541.05, 1541.07, 1541.083, 1541.09, 1541.16, 1541.17, 1541.18, 1541.19, 1541.20, 1541.22, 1541.24, 1541.26, 1541.32, 1541.40, 1541.41, 1541.42, 1541.99, 1547.05, 1547.051, 1547.052, 1547.06, 1547.08, 1547.111, 1547.14, 1547.18, 1547.20, 1547.24, 1547.25, 1547.26, 1547.30, 1547.301, 1547.303, 1547.31, 1547.36, 1547.38, 1547.41, 1547.53, 1547.531, 1547.532, 1547.54, 1547.541, 1547.542, 1547.543, 1547.544, 1547.55, 1547.56, 1547.57, 1547.59, 1547.61, 1547.63, 1547.65, 1547.66, 1547.67, 1547.68, 1547.71, 1547.72, 1547.73, 1547.74, 1547.75, 1547.77, 1547.79, 1547.80, 1547.81, 1547.83, 1547.85, 1547.86, 1547.99, 1548.01, 1548.02, 1548.031, 1548.032, 1548.05, 1548.06, 1548.061, 1548.07, 1548.08, 1548.09, 1548.10, 1548.11, 1548.12, 1548.13, 1548.14, 1548.141, 1548.15, 1548.17, 1548.18, 1548.20, 1548.22, 1557.06, 2905.05, 2909.09, 2930.01, 2935.01, 2935.03, 2981.01, 3701.18, 3714.03, 3734.02, 3734.05, 3734.11, 3767.32, 3937.42, 4167.01, 4303.182, 4501.24, 4503.575, 4505.09, 4517.03, 4585.31, 4585.32, 5311.01, 5735.05, 5735.051, 5735.25, 5735.29, and 5735.30; to amend, for the purpose of adopting new

section numbers as indicated in parentheses, sections 1541.02 (1546.06), 1541.031 (1546.07), 1541.032 (1546.08), 1541.04 (1546.09), 1541.05 (1546.10), 1541.06 (1546.11), 1541.07 (1546.12), 1541.082 (1546.13), 1541.083 (1546.14), 1541.09 (1546.15), 1541.16 (1546.16), 1541.17 (1546.17), 1541.18 (1546.18), 1541.19 (1546.19), 1541.20 (1546.20), 1541.22 (1546.21), 1541.23 (1546.22), 1541.24 (1546.23), 1541.26 (1546.24), 1541.31 (1546.90), 1541.32 (1546.91), 1541.40 (1546.30), 1541.41 (1546.31), 1541.42 (1546.92), and 1541.99 (1546.99); to enact new section 1547.51 and sections 1501.24, 1501.25, 1503.08, 1504.01, 1504.02, 1504.03, 1546.01, 1546.02, 1546.021, 1546.03, 1546.04, and 1546.05; and to repeal sections 1501.04, 1503.02, 1503.24, 1503.25, 1503.26, 1503.29, 1503.30, 1503.31, 1517.10, 1523.01, 1523.02, 1523.03, 1523.04, 1523.05, 1523.06, 1523.07, 1523.08, 1523.09, 1523.10, 1523.11, 1523.12, 1523.13, 1523.14, 1523.15, 1523.16, 1523.17, 1523.18, 1523.19, 1523.20, 1541.01, 1541.03, 1541.10, 1541.11, 1547.01, 1547.51, 1547.52, 1547.521, 1547.522, 1547.523, 1547.78, and 1547.87 of the Revised Code to revise specified laws relating to natural resources.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 109.71, 109.751, 109.77, 121.04, 145.01, 145.332, 154.01, 154.22, 742.63, 903.01, 1501.011, 1501.012, 1501.02, 1501.07, 1501.09, 1501.11, 1501.12, 1501.13, 1501.14, 1501.45, 1503.011, 1503.012, 1503.03, 1503.05, 1503.09, 1503.10, 1503.11, 1503.14, 1503.141, 1503.15, 1503.18, 1506.35, 1509.73, 1509.78, 1514.10, 1519.03, 1519.04, 1520.02, 1520.03, 1533.89, 1541.02, 1541.031, 1541.032, 1541.04, 1541.05, 1541.07, 1541.083, 1541.09, 1541.16, 1541.17, 1541.18, 1541.19, 1541.20,

1541.22, 1541.24, 1541.26, 1541.32, 1541.40, 1541.41, 1541.42, 1541.99, 1547.05, 1547.051, 1547.052, 1547.06, 1547.08, 1547.111, 1547.14, 1547.18, 1547.20, 1547.24, 1547.25, 1547.26, 1547.30, 1547.301, 1547.303, 1547.31, 1547.36, 1547.38, 1547.41, 1547.53, 1547.531, 1547.532, 1547.54, 1547.541, 1547.542, 1547.543, 1547.544, 1547.55, 1547.56, 1547.57, 1547.59, 1547.61, 1547.63, 1547.65, 1547.66, 1547.67, 1547.68, 1547.71, 1547.72, 1547.73, 1547.74, 1547.75, 1547.77, 1547.79, 1547.80, 1547.81, 1547.83, 1547.85, 1547.86, 1547.99, 1548.01, 1548.02, 1548.031, 1548.032, 1548.05, 1548.06, 1548.061, 1548.07, 1548.08, 1548.09, 1548.10, 1548.11, 1548.12, 1548.13, 1548.14, 1548.141, 1548.15, 1548.17, 1548.18, 1548.20, 1548.22, 1557.06, 2905.05, 2909.09, 2930.01, 2935.01, 2935.03, 2981.01, 3701.18, 3714.03, 3734.02, 3734.05, 3734.11, 3767.32, 3937.42, 4167.01, 4303.182, 4501.24, 4503.575, 4505.09, 4517.03, 4585.31, 4585.32, 5311.01, 5735.05, 5735.051, 5735.25, 5735.29, and 5735.30 be amended; sections 1541.02 (1546.06), 1541.031 (1546.07), 1541.032 (1546.08), 1541.04 (1546.09), 1541.05 (1546.10), 1541.06 (1546.11), 1541.07 (1546.12), 1541.082 (1546.13), 1541.083 (1546.14), 1541.09 (1546.15), 1541.16 (1546.16), 1541.17 (1546.17), 1541.18 (1546.18), 1541.19 (1546.19), 1541.20 (1546.20), 1541.22 (1546.21), 1541.23 (1546.22), 1541.24 (1546.23), 1541.26 (1546.24), 1541.31 (1546.90), 1541.32 (1546.91), 1541.40 (1546.30), 1541.41 (1546.31), 1541.42 (1546.92), and 1541.99 (1546.99) be amended for the purpose of adopting new section numbers as indicated in parentheses; and new section 1547.51 and sections 1501.24, 1501.25, 1503.08, 1504.01, 1504.02, 1504.03, 1546.01, 1546.02, 1546.021, 1546.03, 1546.04, and 1546.05 of the Revised code be enacted to read as follows:

Sec. 109.71. There is hereby created in the office of the attorney general the Ohio peace officer training commission. The commission shall consist of nine members appointed by the governor with the advice and consent of the senate and selected as follows: one member representing the public; two members who are incumbent sheriffs; two members who are incumbent chiefs of police; one member from the bureau of criminal identification and investigation; one member from the state highway patrol; one member who is the special agent in charge of a field office of the federal bureau of investigation in this state; and one member from the department of education, trade and industrial education services, law enforcement training.

This section does not confer any arrest authority or any ability or authority to detain a person, write or issue any citation, or provide any disposition alternative, as granted under Chapter 2935. of the Revised Code.

As used in sections 109.71 to 109.801 of the Revised Code:

(A) "Peace officer" means:

(1) A deputy sheriff, marshal, deputy marshal, member of the organized police department of a township or municipal corporation, member of a township police district or joint police district police force, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, or township constable, who is commissioned and employed as a peace officer by a political subdivision of this state or by a metropolitan housing authority, and whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws of this state, ordinances of a municipal corporation, resolutions of a township, or regulations of a board of county commissioners or board of township trustees, or any of those laws, ordinances, resolutions, or regulations;

(2) A police officer who is employed by a railroad company and appointed and commissioned by the secretary of state pursuant to sections 4973.17 to 4973.22 of the Revised Code;

(3) Employees of the department of taxation engaged in the enforcement of Chapter 5743. of the Revised Code and designated by the tax commissioner for peace officer training for purposes of the delegation of investigation powers under section 5743.45 of the Revised Code;

(4) An undercover drug agent;

(5) Enforcement agents of the department of public safety whom the director of public safety designates under section 5502.14 of the Revised Code;

(6) An employee of the department of natural resources who is a natural resources law enforcement staff officer designated pursuant to section 1501.013, a ~~park~~ natural resources officer ~~designated~~ appointed pursuant to section ~~1541.10~~ 1501.24, a ~~forest officer~~ designated pursuant to section ~~1503.29~~, a ~~preserve officer~~ designated pursuant to section ~~1517.10~~ a forest-fire investigator appointed pursuant to section 1503.09, or a wildlife officer designated pursuant to section 1531.13, ~~or a state watercraft officer designated pursuant to section 1547.521~~ of the Revised Code;

(7) An employee of a park district who is designated pursuant to section 511.232 or 1545.13 of the Revised Code;

(8) An employee of a conservancy district who is designated pursuant to section 6101.75 of the Revised Code;

(9) A police officer who is employed by a hospital that employs and maintains its own proprietary police department or security department, and who is appointed and commissioned by the secretary of state pursuant to

sections 4973.17 to 4973.22 of the Revised Code;

(10) Veterans' homes police officers designated under section 5907.02 of the Revised Code;

(11) A police officer who is employed by a qualified nonprofit corporation police department pursuant to section 1702.80 of the Revised Code;

(12) A state university law enforcement officer appointed under section 3345.04 of the Revised Code or a person serving as a state university law enforcement officer on a permanent basis on June 19, 1978, who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program;

(13) A special police officer employed by the department of mental health and addiction services pursuant to section 5119.08 of the Revised Code or the department of developmental disabilities pursuant to section 5123.13 of the Revised Code;

(14) A member of a campus police department appointed under section 1713.50 of the Revised Code;

(15) A member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code;

(16) Investigators appointed by the auditor of state pursuant to section 117.091 of the Revised Code and engaged in the enforcement of Chapter 117. of the Revised Code;

(17) A special police officer designated by the superintendent of the state highway patrol pursuant to section 5503.09 of the Revised Code or a person who was serving as a special police officer pursuant to that section on a permanent basis on October 21, 1997, and who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program;

(18) A special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code or a person serving as a special police officer employed by a port authority on a permanent basis on May 17, 2000, who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program;

(19) A special police officer employed by a municipal corporation who

has been awarded a certificate by the executive director of the Ohio peace officer training commission for satisfactory completion of an approved peace officer basic training program and who is employed on a permanent basis on or after March 19, 2003, at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of transportation as provided in Parts 1542. and 1544. of Title 49 of the Code of Federal Regulations, as amended;

(20) A police officer who is employed by an owner or operator of an amusement park that has an average yearly attendance in excess of six hundred thousand guests and that employs and maintains its own proprietary police department or security department, and who is appointed and commissioned by a judge of the appropriate municipal court or county court pursuant to section 4973.17 of the Revised Code;

(21) A police officer who is employed by a bank, savings and loan association, savings bank, credit union, or association of banks, savings and loan associations, savings banks, or credit unions, who has been appointed and commissioned by the secretary of state pursuant to sections 4973.17 to 4973.22 of the Revised Code, and who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of a state, county, municipal, or department of natural resources peace officer basic training program;

(22) An investigator, as defined in section 109.541 of the Revised Code, of the bureau of criminal identification and investigation who is commissioned by the superintendent of the bureau as a special agent for the purpose of assisting law enforcement officers or providing emergency assistance to peace officers pursuant to authority granted under that section;

(23) A state fire marshal law enforcement officer appointed under section 3737.22 of the Revised Code or a person serving as a state fire marshal law enforcement officer on a permanent basis on or after July 1, 1982, who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program;

(24) A gaming agent employed under section 3772.03 of the Revised Code.

(B) "Undercover drug agent" has the same meaning as in division (B)(2)

of section 109.79 of the Revised Code.

(C) "Crisis intervention training" means training in the use of interpersonal and communication skills to most effectively and sensitively interview victims of rape.

(D) "Missing children" has the same meaning as in section 2901.30 of the Revised Code.

Sec. 109.751. (A) The executive director of the Ohio peace officer training commission shall neither approve nor issue a certificate of approval to a peace officer training school pursuant to section 109.75 of the Revised Code unless the school agrees to permit, in accordance with rules adopted by the attorney general pursuant to division (C) of this section, undercover drug agents to attend its basic training programs. The executive director shall revoke approval, and the certificate of approval of, a peace officer training school that does not permit, in accordance with rules adopted by the attorney general pursuant to division (C) of this section, undercover drug agents to attend its basic training programs.

This division does not apply to peace officer training schools for employees of conservancy districts who are designated pursuant to section 6101.75 of the Revised Code or for a natural resources law enforcement staff officer, ~~park officers, forest officers, preserve officers~~ forest-fire investigators, wildlife officers, or ~~state watercraft~~ natural resources officers of the department of natural resources.

(B)(1) A peace officer training school is not required to permit an undercover drug agent, a bailiff or deputy bailiff of a court of record of this state, or a criminal investigator employed by the state public defender to attend its basic training programs if either of the following applies:

(a) In the case of the Ohio peace officer training academy, the employer county, township, municipal corporation, court, or state public defender or the particular undercover drug agent, bailiff, deputy bailiff, or criminal investigator has not paid the tuition costs of training in accordance with section 109.79 of the Revised Code;

(b) In the case of other peace officer training schools, the employing county, township, municipal corporation, court, or state public defender fails to pay the entire cost of the training and certification.

(2) A training school shall not permit a bailiff or deputy bailiff of a court of record of this state or a criminal investigator employed by the state public defender to attend its basic training programs unless the employing court of the bailiff or deputy bailiff or the state public defender, whichever is applicable, has authorized the bailiff, deputy bailiff, or investigator to attend the school.

(C) The attorney general shall adopt, in accordance with Chapter 119, or pursuant to section 109.74 of the Revised Code, rules governing the attendance of undercover drug agents at approved peace officer training schools, other than the Ohio peace officer training academy, and the certification of the agents upon their satisfactory completion of basic training programs.

Sec. 109.77. (A) As used in this section:

(1) "Felony" has the same meaning as in section 109.511 of the Revised Code.

(2) "Companion animal" has the same meaning as in section 959.131 of the Revised Code.

(B)(1) Notwithstanding any general, special, or local law or charter to the contrary, and except as otherwise provided in this section, no person shall receive an original appointment on a permanent basis as any of the following unless the person previously has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program:

(a) A peace officer of any county, township, municipal corporation, regional transit authority, or metropolitan housing authority;

(b) A natural resources law enforcement staff officer, ~~park officer, forest officer, preserve officer~~ forest-fire investigator, wildlife officer, or ~~state watercraft~~ natural resources officer of the department of natural resources;

(c) An employee of a park district under section 511.232 or 1545.13 of the Revised Code;

(d) An employee of a conservancy district who is designated pursuant to section 6101.75 of the Revised Code;

(e) A state university law enforcement officer;

(f) A special police officer employed by the department of mental health and addiction services pursuant to section 5119.08 of the Revised Code or the department of developmental disabilities pursuant to section 5123.13 of the Revised Code;

(g) An enforcement agent of the department of public safety whom the director of public safety designates under section 5502.14 of the Revised Code;

(h) A special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code;

(i) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in section 119.3 of Title 14 of the Code of



Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of transportation as provided in Parts 1542. and 1544. of Title 49 of the Code of Federal Regulations, as amended;

(j) A gaming agent employed under section 3772.03 of the Revised Code.

(2) Every person who is appointed on a temporary basis or for a probationary term or on other than a permanent basis as any of the following shall forfeit the appointed position unless the person previously has completed satisfactorily or, within the time prescribed by rules adopted by the attorney general pursuant to section 109.74 of the Revised Code, satisfactorily completes a state, county, municipal, or department of natural resources peace officer basic training program for temporary or probationary officers and is awarded a certificate by the director attesting to the satisfactory completion of the program:

(a) A peace officer of any county, township, municipal corporation, regional transit authority, or metropolitan housing authority;

(b) A natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, or state watercraft officer of the department of natural resources;

(c) An employee of a park district under section 511.232 or 1545.13 of the Revised Code;

(d) An employee of a conservancy district who is designated pursuant to section 6101.75 of the Revised Code;

(e) A special police officer employed by the department of mental health and addiction services pursuant to section 5119.08 of the Revised Code or the department of developmental disabilities pursuant to section 5123.13 of the Revised Code;

(f) An enforcement agent of the department of public safety whom the director of public safety designates under section 5502.14 of the Revised Code;

(g) A special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code;

(h) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of

transportation as provided in Parts 1542. and 1544. of Title 49 of the Code of Federal Regulations, as amended.

(3) For purposes of division (B) of this section, a state, county, municipal, or department of natural resources peace officer basic training program, regardless of whether the program is to be completed by peace officers appointed on a permanent or temporary, probationary, or other nonpermanent basis, shall include training in the handling of the offense of domestic violence, other types of domestic violence-related offenses and incidents, protection orders and consent agreements issued or approved under section 2919.26 or 3113.31 of the Revised Code, crisis intervention training, and training on companion animal encounters and companion animal behavior. The requirement to complete training in the handling of the offense of domestic violence, other types of domestic violence-related offenses and incidents, and protection orders and consent agreements issued or approved under section 2919.26 or 3113.31 of the Revised Code does not apply to any person serving as a peace officer on March 27, 1979, and the requirement to complete training in crisis intervention does not apply to any person serving as a peace officer on April 4, 1985. Any person who is serving as a peace officer on April 4, 1985, who terminates that employment after that date, and who subsequently is hired as a peace officer by the same or another law enforcement agency shall complete training in crisis intervention as prescribed by rules adopted by the attorney general pursuant to section 109.742 of the Revised Code. No peace officer shall have employment as a peace officer terminated and then be reinstated with intent to circumvent this section.

(4) Division (B) of this section does not apply to any person serving on a permanent basis on March 28, 1985, as a park officer, forest officer, preserve officer, wildlife officer, or state watercraft officer of the department of natural resources or as an employee of a park district under section 511.232 or 1545.13 of the Revised Code, to any person serving on a permanent basis on March 6, 1986, as an employee of a conservancy district designated pursuant to section 6101.75 of the Revised Code, to any person serving on a permanent basis on January 10, 1991, as a preserve officer of the department of natural resources, to any person employed on a permanent basis on July 2, 1992, as a special police officer by the department of mental health and addiction services pursuant to section 5119.08 of the Revised Code or by the department of developmental disabilities pursuant to section 5123.13 of the Revised Code, to any person serving on a permanent basis on May 17, 2000, as a special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code, to any person serving on a

permanent basis on March 19, 2003, as a special police officer employed by a municipal corporation at a municipal airport or other municipal air navigation facility described in division (A)(19) of section 109.71 of the Revised Code, to any person serving on a permanent basis on June 19, 1978, as a state university law enforcement officer pursuant to section 3345.04 of the Revised Code and who, immediately prior to June 19, 1978, was serving as a special police officer designated under authority of that section, or to any person serving on a permanent basis on September 20, 1984, as a liquor control investigator, known after June 30, 1999, as an enforcement agent of the department of public safety, engaged in the enforcement of Chapters 4301. and 4303. of the Revised Code.

(5) Division (B) of this section does not apply to any person who is appointed as a regional transit authority police officer pursuant to division (Y) of section 306.35 of the Revised Code if, on or before July 1, 1996, the person has completed satisfactorily an approved state, county, municipal, or department of natural resources peace officer basic training program and has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of such an approved program and if, on July 1, 1996, the person is performing peace officer functions for a regional transit authority.

(C) No person, after September 20, 1984, shall receive an original appointment on a permanent basis as a veterans' home police officer designated under section 5907.02 of the Revised Code unless the person previously has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved police officer basic training program. Every person who is appointed on a temporary basis or for a probationary term or on other than a permanent basis as a veterans' home police officer designated under section 5907.02 of the Revised Code shall forfeit that position unless the person previously has completed satisfactorily or, within one year from the time of appointment, satisfactorily completes an approved police officer basic training program.

(D) No bailiff or deputy bailiff of a court of record of this state and no criminal investigator who is employed by the state public defender shall carry a firearm, as defined in section 2923.11 of the Revised Code, while on duty unless the bailiff, deputy bailiff, or criminal investigator has done or received one of the following:

(1) Has been awarded a certificate by the executive director of the Ohio peace officer training commission, which certificate attests to satisfactory completion of an approved state, county, or municipal basic training

program for bailiffs and deputy bailiffs of courts of record and for criminal investigators employed by the state public defender that has been recommended by the Ohio peace officer training commission;

(2) Has successfully completed a firearms training program approved by the Ohio peace officer training commission prior to employment as a bailiff, deputy bailiff, or criminal investigator;

(3) Prior to June 6, 1986, was authorized to carry a firearm by the court that employed the bailiff or deputy bailiff or, in the case of a criminal investigator, by the state public defender and has received training in the use of firearms that the Ohio peace officer training commission determines is equivalent to the training that otherwise is required by division (D) of this section.

(E)(1) Before a person seeking a certificate completes an approved peace officer basic training program, the executive director of the Ohio peace officer training commission shall request the person to disclose, and the person shall disclose, any previous criminal conviction of or plea of guilty of that person to a felony.

(2) Before a person seeking a certificate completes an approved peace officer basic training program, the executive director shall request a criminal history records check on the person. The executive director shall submit the person's fingerprints to the bureau of criminal identification and investigation, which shall submit the fingerprints to the federal bureau of investigation for a national criminal history records check.

Upon receipt of the executive director's request, the bureau of criminal identification and investigation and the federal bureau of investigation shall conduct a criminal history records check on the person and, upon completion of the check, shall provide a copy of the criminal history records check to the executive director. The executive director shall not award any certificate prescribed in this section unless the executive director has received a copy of the criminal history records check on the person to whom the certificate is to be awarded.

(3) The executive director of the commission shall not award a certificate prescribed in this section to a person who has been convicted of or has pleaded guilty to a felony or who fails to disclose any previous criminal conviction of or plea of guilty to a felony as required under division (E)(1) of this section.

(4) The executive director of the commission shall revoke the certificate awarded to a person as prescribed in this section, and that person shall forfeit all of the benefits derived from being certified as a peace officer under this section, if the person, before completion of an approved peace

officer basic training program, failed to disclose any previous criminal conviction of or plea of guilty to a felony as required under division (E)(1) of this section.

(F)(1) Regardless of whether the person has been awarded the certificate or has been classified as a peace officer prior to, on, or after October 16, 1996, the executive director of the Ohio peace officer training commission shall revoke any certificate that has been awarded to a person as prescribed in this section if the person does either of the following:

(a) Pleads guilty to a felony committed on or after January 1, 1997;

(b) Pleads guilty to a misdemeanor committed on or after January 1, 1997, pursuant to a negotiated plea agreement as provided in division (D) of section 2929.43 of the Revised Code in which the person agrees to surrender the certificate awarded to the person under this section.

(2) The executive director of the commission shall suspend any certificate that has been awarded to a person as prescribed in this section if the person is convicted, after trial, of a felony committed on or after January 1, 1997. The executive director shall suspend the certificate pursuant to division (F)(2) of this section pending the outcome of an appeal by the person from that conviction to the highest court to which the appeal is taken or until the expiration of the period in which an appeal is required to be filed. If the person files an appeal that results in that person's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against that person, the executive director shall reinstate the certificate awarded to the person under this section. If the person files an appeal from that person's conviction of the felony and the conviction is upheld by the highest court to which the appeal is taken or if the person does not file a timely appeal, the executive director shall revoke the certificate awarded to the person under this section.

(G)(1) If a person is awarded a certificate under this section and the certificate is revoked pursuant to division (E)(4) or (F) of this section, the person shall not be eligible to receive, at any time, a certificate attesting to the person's satisfactory completion of a peace officer basic training program.

(2) The revocation or suspension of a certificate under division (E)(4) or (F) of this section shall be in accordance with Chapter 119. of the Revised Code.

(H)(1) A person who was employed as a peace officer of a county, township, or municipal corporation of the state on January 1, 1966, and who has completed at least sixteen years of full-time active service as such a peace officer, or equivalent service as determined by the executive director

of the Ohio peace officer training commission, may receive an original appointment on a permanent basis and serve as a peace officer of a county, township, or municipal corporation, or as a state university law enforcement officer, without complying with the requirements of division (B) of this section.

(2) Any person who held an appointment as a state highway trooper on January 1, 1966, may receive an original appointment on a permanent basis and serve as a peace officer of a county, township, or municipal corporation, or as a state university law enforcement officer, without complying with the requirements of division (B) of this section.

(I) No person who is appointed as a peace officer of a county, township, or municipal corporation on or after April 9, 1985, shall serve as a peace officer of that county, township, or municipal corporation unless the person has received training in the handling of missing children and child abuse and neglect cases from an approved state, county, township, or municipal police officer basic training program or receives the training within the time prescribed by rules adopted by the attorney general pursuant to section 109.741 of the Revised Code.

(J) No part of any approved state, county, or municipal basic training program for bailiffs and deputy bailiffs of courts of record and no part of any approved state, county, or municipal basic training program for criminal investigators employed by the state public defender shall be used as credit toward the completion by a peace officer of any part of the approved state, county, or municipal peace officer basic training program that the peace officer is required by this section to complete satisfactorily.

(K) This section does not apply to any member of the police department of a municipal corporation in an adjoining state serving in this state under a contract pursuant to section 737.04 of the Revised Code.

Sec. 121.04. Offices are created within the several departments as follows:

In the department of commerce:

- Commissioner of securities;
- Superintendent of real estate and professional licensing;
- Superintendent of financial institutions;
- State fire marshal;
- Superintendent of industrial compliance;
- Superintendent of liquor control;
- Superintendent of unclaimed funds.

In the department of administrative services:

- Equal employment opportunity coordinator.

In the department of agriculture:

Chiefs of divisions as follows:

- Administration;
- Animal health;
- Livestock environmental permitting;
- Soil and water conservation;
- Dairy;
- Food safety;
- Plant health;
- Markets;
- Meat inspection;
- Consumer protection laboratory;
- Amusement ride safety;
- Enforcement;
- Weights and measures.

In the department of natural resources:

Chiefs of divisions as follows:

- Mineral resources management;
- Oil and gas resources management;
- Forestry;
- Natural areas and preserves;
- Wildlife;
- Geological survey;
- Parks and recreation;
- ~~Watercraft~~ watercraft;
- Water resources;
- Engineering.

In the department of insurance:

- Deputy superintendent of insurance;
- Assistant superintendent of insurance, technical;
- Assistant superintendent of insurance, administrative;
- Assistant superintendent of insurance, research.

Sec. 145.01. As used in this chapter:

(A) "Public employee" means:

(1) Any person holding an office, not elective, under the state or any county, township, municipal corporation, park district, conservancy district, sanitary district, health district, metropolitan housing authority, state retirement board, Ohio history connection, public library, county law library, union cemetery, joint hospital, institutional commissary, state university, or board, bureau, commission, council, committee, authority, or

administrative body as the same are, or have been, created by action of the general assembly or by the legislative authority of any of the units of local government named in division (A)(1) of this section, or employed and paid in whole or in part by the state or any of the authorities named in division (A)(1) of this section in any capacity not covered by section 742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code.

(2) A person who is a member of the public employees retirement system and who continues to perform the same or similar duties under the direction of a contractor who has contracted to take over what before the date of the contract was a publicly operated function. The governmental unit with which the contract has been made shall be deemed the employer for the purposes of administering this chapter.

(3) Any person who is an employee of a public employer, notwithstanding that the person's compensation for that employment is derived from funds of a person or entity other than the employer. Credit for such service shall be included as total service credit, provided that the employee makes the payments required by this chapter, and the employer makes the payments required by sections 145.48 and 145.51 of the Revised Code.

(4) A person who elects in accordance with section 145.015 of the Revised Code to remain a contributing member of the public employees retirement system.

(5) A person who is an employee of the legal rights service on September 30, 2012, and continues to be employed by the nonprofit entity established under Section 319.20 of Am. Sub. H.B. 153 of the 129th general assembly. The nonprofit entity is the employer for the purpose of this chapter.

In all cases of doubt, the public employees retirement board shall determine under section 145.036, 145.037, or 145.038 of the Revised Code whether any person is a public employee, and its decision is final.

(B) "Member" means any public employee, other than a public employee excluded or exempted from membership in the retirement system by section 145.03, 145.031, 145.032, 145.033, 145.034, 145.035, or 145.38 of the Revised Code. "Member" includes a PERS retirant who becomes a member under division (C) of section 145.38 of the Revised Code. "Member" also includes a disability benefit recipient.

(C) "Head of the department" means the elective or appointive head of the several executive, judicial, and administrative departments, institutions, boards, and commissions of the state and local government as the same are created and defined by the laws of this state or, in case of a charter



government, by that charter.

(D) "Employer" or "public employer" means the state or any county, township, municipal corporation, park district, conservancy district, sanitary district, health district, metropolitan housing authority, state retirement board, Ohio history connection, public library, county law library, union cemetery, joint hospital, institutional commissary, state medical university, state university, or board, bureau, commission, council, committee, authority, or administrative body as the same are, or have been, created by action of the general assembly or by the legislative authority of any of the units of local government named in this division not covered by section 742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code. In addition, "employer" means the employer of any public employee.

(E) "Prior military service" also means all service credited for active duty with the armed forces of the United States as provided in section 145.30 of the Revised Code.

(F) "Contributor" means any person who has an account in the employees' savings fund created by section 145.23 of the Revised Code. When used in the sections listed in division (B) of section 145.82 of the Revised Code, "contributor" includes any person participating in a PERS defined contribution plan.

(G) "Beneficiary" or "beneficiaries" means the estate or a person or persons who, as the result of the death of a member, contributor, or retiree, qualify for or are receiving some right or benefit under this chapter.

(H)(1) "Total service credit," except as provided in section 145.37 of the Revised Code, means all service credited to a member of the retirement system since last becoming a member, including restored service credit as provided by section 145.31 of the Revised Code; credit purchased under sections 145.293 and 145.299 of the Revised Code; all the member's military service credit computed as provided in this chapter; all service credit established pursuant to section 145.297 of the Revised Code; and any other service credited under this chapter. For the exclusive purpose of satisfying the service credit requirement and of determining eligibility for benefits under sections 145.32, 145.33, 145.331, 145.332, 145.35, 145.36, and 145.361 of the Revised Code, "five or more years of total service credit" means sixty or more calendar months of contributing service in this system.

(2) "One and one-half years of contributing service credit," as used in division (B) of section 145.45 of the Revised Code, also means eighteen or more calendar months of employment by a municipal corporation that formerly operated its own retirement plan for its employees or a part of its employees, provided that all employees of that municipal retirement plan

who have eighteen or more months of such employment, upon establishing membership in the public employees retirement system, shall make a payment of the contributions they would have paid had they been members of this system for the eighteen months of employment preceding the date membership was established. When that payment has been made by all such employee members, a corresponding payment shall be paid into the employers' accumulation fund by that municipal corporation as the employer of the employees.

(3) Where a member also is a member of the state teachers retirement system or the school employees retirement system, or both, except in cases of retirement on a combined basis pursuant to section 145.37 of the Revised Code or as provided in section 145.383 of the Revised Code, service credit for any period shall be credited on the basis of the ratio that contributions to the public employees retirement system bear to total contributions in all state retirement systems.

(4) Not more than one year of credit may be given for any period of twelve months.

(5) "Ohio service credit" means credit for service that was rendered to the state or any of its political subdivisions or any employer.

(I) "Regular interest" means interest at any rates for the respective funds and accounts as the public employees retirement board may determine from time to time.

(J) "Accumulated contributions" means the sum of all amounts credited to a contributor's individual account in the employees' savings fund together with any interest credited to the contributor's account under section 145.471 or 145.472 of the Revised Code.

(K)(1) "Final average salary" means the greater of the following:

(a) The sum of the member's earnable salaries for the appropriate number of calendar years of contributing service, determined under section 145.017 of the Revised Code, in which the member's earnable salary was highest, divided by the same number of calendar years or, if the member has fewer than the appropriate number of calendar years of contributing service, the total of the member's earnable salary for all years of contributing service divided by the number of calendar years of the member's contributing service;

(b) The sum of a member's earnable salaries for the appropriate number of consecutive months, determined under section 145.017 of the Revised Code, that were the member's last months of service, up to and including the last month, divided by the appropriate number of years or, if the time between the first and final months of service is less than the appropriate

number of consecutive months, the total of the member's earnable salary for all months of contributing service divided by the number of years between the first and final months of contributing service, including any fraction of a year, except that the member's final average salary shall not exceed the member's highest earnable salary for any twelve consecutive months.

(2) If contributions were made in only one calendar year, "final average salary" means the member's total earnable salary.

(L) "Annuity" means payments for life derived from contributions made by a contributor and paid from the annuity and pension reserve fund as provided in this chapter. All annuities shall be paid in twelve equal monthly installments.

(M) "Annuity reserve" means the present value, computed upon the basis of the mortality and other tables adopted by the board, of all payments to be made on account of any annuity, or benefit in lieu of any annuity, granted to a retirant as provided in this chapter.

(N)(1) "Disability retirement" means retirement as provided in section 145.36 of the Revised Code.

(2) "Disability allowance" means an allowance paid on account of disability under section 145.361 of the Revised Code.

(3) "Disability benefit" means a benefit paid as disability retirement under section 145.36 of the Revised Code, as a disability allowance under section 145.361 of the Revised Code, or as a disability benefit under section 145.37 of the Revised Code.

(4) "Disability benefit recipient" means a member who is receiving a disability benefit.

(O) "Age and service retirement" means retirement as provided in sections 145.32, 145.33, 145.331, 145.332, 145.37, and 145.46 and former section 145.34 of the Revised Code.

(P) "Pensions" means annual payments for life derived from contributions made by the employer that at the time of retirement are credited into the annuity and pension reserve fund from the employers' accumulation fund and paid from the annuity and pension reserve fund as provided in this chapter. All pensions shall be paid in twelve equal monthly installments.

(Q) "Retirement allowance" means the pension plus that portion of the benefit derived from contributions made by the member.

(R)(1) Except as otherwise provided in division (R) of this section, "earnable salary" means all salary, wages, and other earnings paid to a contributor by reason of employment in a position covered by the retirement system. The salary, wages, and other earnings shall be determined prior to

determination of the amount required to be contributed to the employees' savings fund under section 145.47 of the Revised Code and without regard to whether any of the salary, wages, or other earnings are treated as deferred income for federal income tax purposes. "Earnable salary" includes the following:

(a) Payments made by the employer in lieu of salary, wages, or other earnings for sick leave, personal leave, or vacation used by the contributor;

(b) Payments made by the employer for the conversion of sick leave, personal leave, and vacation leave accrued, but not used if the payment is made during the year in which the leave is accrued, except that payments made pursuant to section 124.383 or 124.386 of the Revised Code are not earnable salary;

(c) Allowances paid by the employer for maintenance, consisting of housing, laundry, and meals, as certified to the retirement board by the employer or the head of the department that employs the contributor;

(d) Fees and commissions paid under section 507.09 of the Revised Code;

(e) Payments that are made under a disability leave program sponsored by the employer and for which the employer is required by section 145.296 of the Revised Code to make periodic employer and employee contributions;

(f) Amounts included pursuant to former division (K)(3) and former division (Y) of this section and section 145.2916 of the Revised Code.

(2) "Earnable salary" does not include any of the following:

(a) Fees and commissions, other than those paid under section 507.09 of the Revised Code, paid as sole compensation for personal services and fees and commissions for special services over and above services for which the contributor receives a salary;

(b) Amounts paid by the employer to provide life insurance, sickness, accident, endowment, health, medical, hospital, dental, or surgical coverage, or other insurance for the contributor or the contributor's family, or amounts paid by the employer to the contributor in lieu of providing the insurance;

(c) Incidental benefits, including lodging, food, laundry, parking, or services furnished by the employer, or use of the employer's property or equipment, or amounts paid by the employer to the contributor in lieu of providing the incidental benefits;

(d) Reimbursement for job-related expenses authorized by the employer, including moving and travel expenses and expenses related to professional development;

(e) Payments for accrued but unused sick leave, personal leave, or

vacation that are made at any time other than in the year in which the sick leave, personal leave, or vacation was accrued;

(f) Payments made to or on behalf of a contributor that are in excess of the annual compensation that may be taken into account by the retirement system under division (a)(17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a)(17), as amended;

(g) Payments made under division (B), (C), or (E) of section 5923.05 of the Revised Code, Section 4 of Substitute Senate Bill No. 3 of the 119th general assembly, Section 3 of Amended Substitute Senate Bill No. 164 of the 124th general assembly, or Amended Substitute House Bill No. 405 of the 124th general assembly;

(h) Anything of value received by the contributor that is based on or attributable to retirement or an agreement to retire, except that payments made on or before January 1, 1989, that are based on or attributable to an agreement to retire shall be included in earnable salary if both of the following apply:

(i) The payments are made in accordance with contract provisions that were in effect prior to January 1, 1986;

(ii) The employer pays the retirement system an amount specified by the retirement board equal to the additional liability resulting from the payments.

(i) The portion of any amount included in section 145.2916 of the Revised Code that represents employer contributions.

(3) The retirement board shall determine by rule whether any compensation not enumerated in division (R) of this section is earnable salary, and its decision shall be final.

(S) "Pension reserve" means the present value, computed upon the basis of the mortality and other tables adopted by the board, of all payments to be made on account of any retirement allowance or benefit in lieu of any retirement allowance, granted to a member or beneficiary under this chapter.

(T) "Contributing service" means both of the following:

(1) All service credited to a member of the system since January 1, 1935, for which contributions are made as required by sections 145.47, 145.48, and 145.483 of the Revised Code. In any year subsequent to 1934, credit for any service shall be allowed in accordance with section 145.016 of the Revised Code.

(2) Service credit received by election of the member under section 145.814 of the Revised Code.

(U) "State retirement board" means the public employees retirement board, the school employees retirement board, or the state teachers

retirement board.

(V) "Retirant" means any former member who retires and is receiving a monthly allowance as provided in sections 145.32, 145.33, 145.331, 145.332, and 145.46 and former section 145.34 of the Revised Code.

(W) "Employer contribution" means the amount paid by an employer as determined under section 145.48 of the Revised Code.

(X) "Public service terminates" means the last day for which a public employee is compensated for services performed for an employer or the date of the employee's death, whichever occurs first.

(Y) "Five years of service credit," for the exclusive purpose of satisfying the service credit requirements and of determining eligibility under section 145.33 or 145.332 of the Revised Code, means employment covered under this chapter or under a former retirement plan operated, recognized, or endorsed by the employer prior to coverage under this chapter or under a combination of the coverage.

(Z) "Deputy sheriff" means any person who is commissioned and employed as a full-time peace officer by the sheriff of any county, and has been so employed since on or before December 31, 1965; any person who is or has been commissioned and employed as a peace officer by the sheriff of any county since January 1, 1966, and who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code; or any person deputized by the sheriff of any county and employed pursuant to section 2301.12 of the Revised Code as a criminal bailiff or court constable who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code.

(AA) "Township constable or police officer in a township police department or district" means any person who is commissioned and employed as a full-time peace officer pursuant to Chapter 505. or 509. of the Revised Code, who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code.

(BB) "Drug agent" means any person who is either of the following:

(1) Employed full time as a narcotics agent by a county narcotics agency created pursuant to section 307.15 of the Revised Code and has received a certificate attesting to the satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code;

(2) Employed full time as an undercover drug agent as defined in section 109.79 of the Revised Code and is in compliance with section

109.77 of the Revised Code.

(CC) "Department of public safety enforcement agent" means a full-time employee of the department of public safety who is designated under section 5502.14 of the Revised Code as an enforcement agent and who is in compliance with section 109.77 of the Revised Code.

(DD) "Natural resources law enforcement staff officer" means a full-time employee of the department of natural resources who is designated a natural resources law enforcement staff officer under section 1501.013 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

~~(EE) "Park officer" means a full-time employee of the department of natural resources who is designated a park officer under section 1541.10 of the Revised Code and is in compliance with section 109.77 of the Revised Code.~~

~~(FF) "Forest officer" "Forest-fire investigator" means a full-time employee of the department of natural resources who is designated a forest officer~~ appointed a forest-fire investigator under section ~~1503.29~~ 1503.09 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

~~(GG)~~(FF) "Preserve Natural resources officer" means a full-time employee of the department of natural resources who is ~~designated a preserve~~ appointed as a natural resources officer under section ~~1517.10~~ 1501.24 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

~~(HH)~~(GG) "Wildlife officer" means a full-time employee of the department of natural resources who is designated a wildlife officer under section 1531.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

~~(II) "State watercraft officer" means a full-time employee of the department of natural resources who is designated a state watercraft officer under section 1547.521 of the Revised Code and is in compliance with section 109.77 of the Revised Code.~~

~~(JJ)~~(HH) "Park district police officer" means a full-time employee of a park district who is designated pursuant to section 511.232 or 1545.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

~~(KK)~~(II) "Conservancy district officer" means a full-time employee of a conservancy district who is designated pursuant to section 6101.75 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

~~(LL)~~(JJ) "Municipal police officer" means a member of the organized police department of a municipal corporation who is employed full time, is in compliance with section 109.77 of the Revised Code, and is not a member of the Ohio police and fire pension fund.

~~(MM)~~(KK) "Veterans' home police officer" means any person who is employed at a veterans' home as a police officer pursuant to section 5907.02 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

~~(NN)~~(LL) "Special police officer for a mental health institution" means any person who is designated as such pursuant to section 5119.08 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

~~(OO)~~(MM) "Special police officer for an institution for the developmentally disabled" means any person who is designated as such pursuant to section 5123.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

~~(PP)~~(NN) "State university law enforcement officer" means any person who is employed full time as a state university law enforcement officer pursuant to section 3345.04 of the Revised Code and who is in compliance with section 109.77 of the Revised Code.

~~(QQ)~~(OO) "House sergeant at arms" means any person appointed by the speaker of the house of representatives under division (B)(1) of section 101.311 of the Revised Code who has arrest authority under division (E)(1) of that section.

~~(RR)~~(PP) "Assistant house sergeant at arms" means any person appointed by the house sergeant at arms under division (C)(1) of section 101.311 of the Revised Code.

~~(SS)~~(QQ) "Regional transit authority police officer" means a person who is employed full time as a regional transit authority police officer under division (Y) of section 306.35 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

~~(TT)~~(RR) "State highway patrol police officer" means a special police officer employed full time and designated by the superintendent of the state highway patrol pursuant to section 5503.09 of the Revised Code or a person serving full time as a special police officer pursuant to that section on a permanent basis on October 21, 1997, who is in compliance with section 109.77 of the Revised Code.

~~(UU)~~(SS) "Municipal public safety director" means a person who serves full time as the public safety director of a municipal corporation with the duty of directing the activities of the municipal corporation's police



department and fire department.

~~(VV)~~(TT) Notwithstanding section 2901.01 of the Revised Code, "PERS law enforcement officer" means a sheriff or any of the following whose primary duties are to preserve the peace, protect life and property, and enforce the laws of this state: a deputy sheriff, township constable or police officer in a township police department or district, drug agent, department of public safety enforcement agent, natural resources law enforcement staff officer, ~~park officer, forest officer, preserve officer,~~ wildlife officer, ~~state watercraft~~ forest-fire investigator, natural resources officer, park district police officer, conservancy district officer, veterans' home police officer, special police officer for a mental health institution, special police officer for an institution for the developmentally disabled, state university law enforcement officer, municipal police officer, house sergeant at arms, assistant house sergeant at arms, regional transit authority police officer, or state highway patrol police officer. "PERS law enforcement officer" also includes a person serving as a municipal public safety director at any time during the period from September 29, 2005, to March 24, 2009, if the duties of that service were to preserve the peace, protect life and property, and enforce the laws of this state.

~~(WW)~~(UU) "Hamilton county municipal court bailiff" means a person appointed by the clerk of courts of the Hamilton county municipal court under division (A)(3) of section 1901.32 of the Revised Code who is employed full time as a bailiff or deputy bailiff, who has received a certificate attesting to the person's satisfactory completion of the peace officer basic training described in division (D)(1) of section 109.77 of the Revised Code.

~~(XX)~~(VV) "PERS public safety officer" means a Hamilton county municipal court bailiff, or any of the following whose primary duties are other than to preserve the peace, protect life and property, and enforce the laws of this state: a deputy sheriff, township constable or police officer in a township police department or district, drug agent, department of public safety enforcement agent, natural resources law enforcement staff officer, ~~park officer, forest officer, preserve officer,~~ wildlife officer, ~~state watercraft~~ forest-fire investigator, natural resources officer, park district police officer, conservancy district officer, veterans' home police officer, special police officer for a mental health institution, special police officer for an institution for the developmentally disabled, state university law enforcement officer, municipal police officer, house sergeant at arms, assistant house sergeant at arms, regional transit authority police officer, or state highway patrol police officer. "PERS public safety officer" also includes a person serving as a

municipal public safety director at any time during the period from September 29, 2005, to March 24, 2009, if the duties of that service were other than to preserve the peace, protect life and property, and enforce the laws of this state.

~~(YY)~~(WW) "Fiduciary" means a person who does any of the following:

(1) Exercises any discretionary authority or control with respect to the management of the system or with respect to the management or disposition of its assets;

(2) Renders investment advice for a fee, direct or indirect, with respect to money or property of the system;

(3) Has any discretionary authority or responsibility in the administration of the system.

~~(ZZ)~~(XX) "Actuary" means an individual who satisfies all of the following requirements:

(1) Is a member of the American academy of actuaries;

(2) Is an associate or fellow of the society of actuaries;

(3) Has a minimum of five years' experience in providing actuarial services to public retirement plans.

~~(AAA)~~(YY) "PERS defined benefit plan" means the plan described in sections 145.201 to 145.79 of the Revised Code.

~~(BBB)~~(ZZ) "PERS defined contribution plans" means the plan or plans established under section 145.81 of the Revised Code.

Sec. 145.332. Eligibility of members of the public employees retirement system, other than those subject to section 145.32 of the Revised Code, for age and service retirement shall be determined under this section.

(A) A member of the public employees retirement system is eligible for age and service retirement under this division if, not later than five years after ~~the effective date of this section~~ January 7, 2013, the member meets one of the following requirements:

(1) Has attained age forty-eight and has at least twenty-five years of total service credit as a PERS law enforcement officer;

(2) Has attained age fifty-two and has at least twenty-five years of total service credit as a PERS public safety officer or has service as a PERS public safety officer and service as a PERS law enforcement officer that when combined equal at least twenty-five years of total service credit;

(3) Has attained age sixty-two and has at least fifteen years of total service credit as a PERS law enforcement officer or PERS public safety officer.

(B)(1) A member who would be eligible to retire not later than ten years after ~~the effective date of this amendment~~ January 7, 2013, if the

requirements of section 145.33 of the Revised Code as they existed immediately prior to ~~the effective date of this amendment~~ January 7, 2013, were still in effect is eligible to retire under this division if the member meets one of the following requirements:

(a) Has attained age fifty and has at least twenty-five years of total service credit as a PERS law enforcement officer;

(b) Has attained age fifty-four and has at least twenty-five years of total service credit as a PERS public safety officer or has service as a PERS public safety officer and service as a PERS law enforcement officer that when combined equal at least twenty-five years of total service credit;

(c) Has attained age sixty-four and has at least fifteen years of total service credit as a PERS law enforcement officer or PERS public safety officer.

(2) A member who on ~~the effective date of this amendment~~ January 7, 2013, has twenty or more years of total service credit is eligible for age and service retirement under this division on meeting one of the requirements of division (B)(1) of this section, regardless of when the member meets the requirement unless, between ~~the effective date of this section~~ January 7, 2013, and the date the member meets the requirement, the member receives a refund of accumulated contributions under section 145.40 of the Revised Code.

(C) A member who is not eligible for age and service retirement under division (A) or (B) of this section is eligible under this division if the member meets one of the following requirements:

(1) Has attained age fifty-two and has at least twenty-five years of total service credit as a PERS law enforcement officer;

(2) Has attained age fifty-six and has at least twenty-five years of total service credit as a PERS public safety officer or has service as a PERS public safety officer and service as a PERS law enforcement officer that when combined equal at least twenty-five years of total service credit;

(3) Has attained age sixty-four and has at least fifteen years of total service credit as a PERS law enforcement officer or PERS public safety officer.

(D) Service credit purchased or obtained under this chapter shall be used in determining whether a member has the number of years of total service credit required under division (A) or (B) of this section only if the member was a member on ~~the effective date of this section~~ January 7, 2013, or obtains credit under section 145.483 of the Revised Code that would have made the member a member on that date and one of the following applies:

(1) Except in the case of service credit that has been or will be

purchased or obtained under section 145.295 or 145.37 of the Revised Code or is for service covered by the Cincinnati retirement system:

(a) For division (A) of this section, the service credit purchase is completed or the service credit is obtained not later than five years after ~~the effective date of this section~~ January 7, 2013;

(b) For division (B) of this section, the service credit purchase is completed or the service credit is obtained not later than ten years after ~~the effective date of this section~~ January 7, 2013.

(2) In the case of service credit that has been or will be purchased or obtained under section 145.295 or 145.37 of the Revised Code or is for service covered by the Cincinnati retirement system:

(a) For division (A) of this section, the service for which the credit has been or will be purchased or obtained occurs not later than five years after ~~the effective date of this section~~ January 7, 2013;

(b) For division (B) of this section, the service for which the credit has been or will be purchased or obtained occurs not later than ten years after ~~the effective date of this section~~ January 7, 2013.

(E)(1) A member with at least twenty-five years of total service credit who would be eligible to retire under division (B)(1)(a) of this section had the member attained age fifty and who voluntarily resigns or is discharged for any reason except death, dishonesty, cowardice, intemperate habits, or conviction of a felony, on or after attaining age forty-eight, but before attaining age fifty, may elect to receive a reduced benefit. The benefit shall be the actuarial equivalent of the allowance calculated under division (F) of this section adjusted for age.

(2) A member with at least twenty-five years of total service credit who would be eligible to retire under division (C)(1) of this section had the member attained age fifty-two and who voluntarily resigns or is discharged for any reason except death, dishonesty, cowardice, intemperate habits, or conviction of a felony, on or after attaining age forty-eight, but before attaining age fifty-two, may elect to receive a reduced benefit. The benefit shall be the actuarial equivalent of the allowance calculated under division (F) of this section adjusted for age.

(3) A member with at least twenty-five years of total service credit who would be eligible to retire under division (A)(2) of this section had the member attained age fifty-two and who voluntarily resigns or is discharged for any reason except death, dishonesty, cowardice, intemperate habits, or conviction of a felony, on or after attaining age forty-eight, but before attaining age fifty-two, may elect to receive a reduced benefit.

(a) If eligibility to make the election under division (E)(3) of this section

occurs not later than five years after ~~the effective date of this section~~ January 7, 2013, the benefit shall be calculated in accordance with the following schedule:

Attained Age	Reduced Benefit
48	75% of the benefit payable under division (F) of this section
49	80% of the benefit payable under division (F) of this section
50	86% of the benefit payable under division (F) of this section
51	93% of the benefit payable under division (F) of this section

(b) If eligibility to make the election occurs after the date determined under division (E)(3)(a) of this section, the benefit shall be the actuarial equivalent of the allowance calculated under division (F) of this section adjusted for age.

(4) A member with at least twenty-five years of total service credit who would be eligible to retire under division (B)(1)(b) of this section had the member attained age fifty-four and who voluntarily resigns or is discharged for any reason except death, dishonesty, cowardice, intemperate habits, or conviction of a felony, on or after attaining age forty-eight, but before attaining age fifty-four, may elect to receive a reduced benefit. The benefit shall be the actuarial equivalent of the allowance calculated under division (F) of this section adjusted for age.

(5) A member with at least twenty-five years of total service credit who would be eligible to retire under division (C)(2) of this section had the member attained age fifty-six and who voluntarily resigns or is discharged for any reason except death, dishonesty, cowardice, intemperate habits, or conviction of a felony, on or after attaining age fifty-two, but before attaining age fifty-six, may elect to receive a reduced benefit. The benefit shall be the actuarial equivalent of the allowance calculated under division (F) of this section adjusted for age.

(6) If a member elects to receive a reduced benefit under division (E)(1), (2), (3), (4), or (5) of this section, the reduced benefit shall be based on the member's age on the member's most recent birthday. Once a member elects to receive a reduced benefit and has received a payment, the member may not change that election.

(F) A benefit paid under division (A), (B), or (C) of this section shall consist of an annual single lifetime allowance equal to the sum of two and one-half per cent of the member's final average salary multiplied by the first

twenty-five years of the member's total service credit plus two and one-tenth per cent of the member's final average salary multiplied by the number of years of the member's total service credit in excess of twenty-five years.

(G) A member with at least fifteen years of total service credit as a PERS law enforcement officer or PERS public safety officer who voluntarily resigns or is discharged for any reason except death, dishonesty, cowardice, intemperate habits, or conviction of a felony may apply for an age and service retirement benefit, which shall consist of an annual single lifetime allowance equal to one and one-half per cent of the member's final average salary multiplied by the number of years of the member's total service credit.

(1) If the member will attain age fifty-two not later than ten years after ~~the effective date of this section~~ January 7, 2013, the retirement allowance shall commence on the first day of the calendar month following the month in which application is filed with the board on or after the member's attainment of age fifty-two.

(2) If the member will not attain age fifty-two on or before the date determined under division (G)(1) of this section, the retirement allowance shall commence on the first day of the calendar month following the month in which application is filed with the board on or after the member's attainment of age fifty-six.

(H) A benefit paid under this section shall not exceed the lesser of ninety per cent of the member's final average salary or the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 415, as amended.

(I) A member with service credit as a PERS law enforcement officer or PERS public safety officer and other service credit under this chapter may elect one of the following:

(1) To have all the member's service credit under this chapter, including credit for service as a PERS law enforcement officer or PERS public safety officer, used in calculating a retirement allowance under section 145.33 of the Revised Code if the member qualifies for an allowance under that section;

(2) If the member qualifies for an allowance under division (A)(1), (B)(1), (C)(1), or (E)(1) or (2) of this section, to receive all of the following:

(a) A benefit under division (A)(1), (B)(1), (C)(1), or (E)(1) or (2) of this section for the member's service credit as a PERS law enforcement officer;

(b) A single life annuity having a reserve equal to the amount of the member's accumulated contributions for all service other than PERS law

enforcement service;

(c) A pension equal to the annuity provided under division (I)(2)(b) of this section, excluding amounts of the member's accumulated contributions deposited under former division (Y) of section 145.01 or former sections 145.02, 145.29, 145.292, and 145.42, or sections 145.20, 145.201, 145.28, 145.291, 145.292, 145.293, 145.299, 145.2916, 145.301, 145.47, and 145.814 of the Revised Code for the purchase of service credit.

(3) If the member qualifies for an allowance under division (A)(2), (B)(2), (C)(2), or (E)(3), (4), or (5) of this section, to receive all of the following:

(a) A benefit under division (A)(2), (B)(2), (C)(2), or (E)(3), (4), or (5) of this section for the member's service credit as a PERS law enforcement officer or PERS public safety officer;

(b) A single life annuity having a reserve equal to the amount of the member's accumulated contributions for all service other than PERS law enforcement service or PERS public safety officer service;

(c) A pension equal to the annuity provided under division (I)(3)(b) of this section, excluding amounts of the member's accumulated contributions deposited under former division (Y) of section 145.01 or former sections 145.02, 145.29, 145.292, and 145.42, or sections 145.20, 145.201, 145.28, 145.291, 145.292, 145.293, 145.299, 145.2916, 145.301, 145.47, and 145.814 of the Revised Code for the purchase of service credit.

(J) For the purposes of this section, "total service credit" includes credit for military service to the extent permitted by division (K) of this section and credit for service as a police officer or state highway patrol trooper to the extent permitted by division (L) of this section.

(K) Notwithstanding sections 145.01 and 145.30 of the Revised Code, not more than four years of military service credit granted or purchased under section 145.30 of the Revised Code and five years of military service credit purchased under section 145.301 or 145.302 of the Revised Code shall be used in calculating service as a PERS law enforcement officer or PERS public safety officer or the total service credit of that person.

(L)(1) Only credit for the member's service as a PERS law enforcement officer, PERS public safety officer, or service credit obtained as a police officer or state highway patrol trooper shall be used in computing the benefit of a member who qualifies for a benefit under this section for the following:

(a) Any person who originally is commissioned and employed as a deputy sheriff by the sheriff of any county, or who originally is elected sheriff, on or after January 1, 1975;

(b) Any deputy sheriff who originally is employed as a criminal bailiff

or court constable on or after April 16, 1993;

(c) Any person who originally is appointed as a township constable or police officer in a township police department or district on or after January 1, 1981;

(d) Any person who originally is employed as a county narcotics agent on or after September 26, 1984;

(e) Any person who originally is employed as an undercover drug agent as defined in section 109.79 of the Revised Code, department of public safety enforcement agent who prior to June 30, 1999, was a liquor control investigator, ~~park officer, forest~~ forest-fire investigator, natural resources officer, wildlife officer, ~~state watercraft officer~~, park district police officer, conservancy district officer, veterans' home police officer, special police officer for a mental health institution, special police officer for an institution for the developmentally disabled, or municipal police officer on or after December 15, 1988;

(f) Any person who originally is employed as a state university law enforcement officer on or after November 6, 1996;

(g) Any person who is originally employed as a state university law enforcement officer by the university of Akron on or after September 16, 1998;

(h) Any person who originally is employed as a preserve officer on or after March 18, 1999;

(i) Any person who originally is employed as a natural resources law enforcement staff officer on or after March 18, 1999;

(j) Any person who is originally employed as a department of public safety enforcement agent on or after June 30, 1999;

(k) Any person who is originally employed as a house sergeant at arms or assistant house sergeant at arms on or after September 5, 2001;

(l) Any person who is originally appointed as a regional transit authority police officer or state highway patrol police officer on or after February 1, 2002;

(m) Any person who is originally employed as a municipal public safety director on or after September 29, 2005, but not later than March 24, 2009.

(2) Only credit for a member's service as a PERS public safety officer or service credit obtained as a PERS law enforcement officer, police officer, or state highway patrol trooper shall be used in computing the benefit of a member who qualifies for a benefit under division (B)(1)(b) or (c), (B)(2), (C)(1)(b) or (c), or (C)(2) of this section for any person who originally is employed as a Hamilton county municipal court bailiff on or after November 6, 1996.



(M) For purposes of this section, service prior to June 30, 1999, as a food stamp trafficking agent under former section 5502.14 of the Revised Code shall be considered service as a law enforcement officer.

(N) Retirement allowances determined under this section shall be paid as provided in section 145.46 of the Revised Code.

(O) A member seeking to retire under this section shall file an application with the public employees retirement board.

Service retirement shall be effective as provided in division (E) of section 145.32 of the Revised Code.

(P) If fewer than one per cent of the retirement system's members are contributing as public safety officers, the board, pursuant to a rule it adopts, may treat service as a public safety officer as service as a law enforcement officer.

Sec. 154.01. As used in this chapter:

(A) "Commission" means the Ohio public facilities commission created in section 151.02 of the Revised Code.

(B) "Obligations" means bonds, notes, or other evidences of obligation, including interest coupons pertaining thereto, issued pursuant to Chapter 154. of the Revised Code.

(C) "Bond proceedings" means the order or orders, resolution or resolutions, trust agreement, indenture, lease, and other agreements, amendments and supplements to the foregoing, or any combination thereof, authorizing or providing for the terms and conditions applicable to, or providing for the security of, obligations issued pursuant to Chapter 154. of the Revised Code, and the provisions contained in such obligations.

(D) "State agencies" means the state of Ohio and officers, boards, commissions, departments, divisions, or other units or agencies of the state.

(E) "Governmental agency" means state agencies, state supported and assisted institutions of higher education, municipal corporations, counties, townships, school districts, and any other political subdivision or special district in this state established pursuant to law, and, except where otherwise indicated, also means the United States or any department, division, or agency thereof, and any agency, commission, or authority established pursuant to an interstate compact or agreement.

(F) "Institutions of higher education" and "state supported or state assisted institutions of higher education" means the state universities identified in section 3345.011 of the Revised Code, the northeast Ohio medical university, state universities or colleges at any time created, community college districts, university branch districts, and technical college districts at any time established or operating under Chapter 3354.,

3355., or 3357. of the Revised Code, and other institutions for education, including technical education, beyond the high school, receiving state support or assistance for their expenses of operation.

(G) "Governing body" means:

(1) In the case of institutions of higher education, the board of trustees, board of directors, commission, or other body vested by law with the general management, conduct, and control of one or more institutions of higher education;

(2) In the case of a county, the board of county commissioners or other legislative body; in the case of a municipal corporation, the council or other legislative body; in the case of a township, the board of township trustees; in the case of a school district, the board of education;

(3) In the case of any other governmental agency, the officer, board, commission, authority or other body having the general management thereof or having jurisdiction or authority in the particular circumstances.

(H) "Person" means any person, firm, partnership, association, or corporation.

(I) "Bond service charges" means principal, including mandatory sinking fund requirements for retirement of obligations, and interest, and redemption premium, if any, required to be paid by the state on obligations. If not prohibited by the applicable bond proceedings, bond service charges may include costs relating to credit enhancement facilities that are related to and represent, or are intended to provide a source of payment of or limitation on, other bond service charges.

(J) "Capital facilities" means buildings, structures, and other improvements, and equipment, real estate, and interests in real estate therefor, within the state, and any one, part of, or combination of the foregoing, to serve the general purposes for which the issuing authority is authorized to issue obligations pursuant to Chapter 154. of the Revised Code, including, but not limited to, drives, roadways, parking facilities, walks, lighting, machinery, furnishings, utilities, landscaping, wharves, docks, piers, reservoirs, dams, tunnels, bridges, retaining walls, riprap, culverts, ditches, channels, watercourses, retention basins, standpipes and water storage facilities, waste treatment and disposal facilities, heating, air conditioning and communications facilities, inns, lodges, cabins, camping sites, golf courses, boat and bathing facilities, athletic and recreational facilities, and site improvements.

(K) "Costs of capital facilities" means the costs of acquiring, constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, improving, equipping, or furnishing capital facilities, and the

financing thereof, including the cost of clearance and preparation of the site and of any land to be used in connection with capital facilities, the cost of any indemnity and surety bonds and premiums on insurance, all related direct administrative expenses and allocable portions of direct costs of the commission or issuing authority and department of administrative services, or other designees of the commission under section 154.17 of the Revised Code, cost of engineering and architectural services, designs, plans, specifications, surveys, and estimates of cost, legal fees, fees and expenses of trustees, depositories, and paying agents for the obligations, cost of issuance of the obligations and financing charges and fees and expenses of financial advisers and consultants in connection therewith, interest on obligations, including but not limited to, interest from the date of their issuance to the time when interest is to be covered from sources other than proceeds of obligations, amounts necessary to establish reserves as required by the bond proceedings, costs of audits, the reimbursement of all moneys advanced or applied by or borrowed from any governmental agency, whether to or by the commission or others, from whatever source provided, for the payment of any item or items of cost of the capital facilities, any share of the cost undertaken by the commission pursuant to arrangements made with governmental agencies under division (H) of section 154.06 of the Revised Code, and all other expenses necessary or incident to planning or determining feasibility or practicability with respect to capital facilities, and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, rehabilitation, remodeling, renovation, enlargement, improvement, equipment, and furnishing of capital facilities, the financing thereof and the placing of the same in use and operation, including any one, part of, or combination of such classes of costs and expenses.

(L) "Public service facilities" means inns, lodges, hotels, cabins, camping sites, scenic trails, picnic sites, restaurants, commissaries, golf courses, boating and bathing facilities and other similar facilities in state parks.

(M) "State parks" means:

(1) State reservoirs described and identified in section ~~1541.06~~ 1546.11 of the Revised Code;

(2) All lands or interests therein of the state identified as administered by the division of parks and ~~recreation~~ watercraft in the "inventory of state owned lands administered by the department of natural resources as of June 1, 1963," as recorded in the journal of the director, which inventory was prepared by the real estate section of the department and is supported by

maps now on file in said real estate section;

(3) All lands or interests in lands of the state designated after June 1, 1963, as state parks in the journal of the director with the approval of the recreation and resources council created in section 1501.04 of the Revised Code.

State parks do not include any lands or interest in lands of the state administered jointly by two or more divisions of the department of natural resources. The designation of lands as state parks under divisions (M)(1) to (3) of this section is conclusive and such lands shall be under the control of and administered by the division of parks and ~~recreation~~ watercraft. No order or proceeding designating lands as state parks or park purchase areas is subject to any appeal or review by any officer, board, commission, or court.

(N) "Bond service fund" means the applicable fund created for and pledged to the payment of bond service charges under section 154.20, 154.21, 154.22, or 154.23 of the Revised Code, including all moneys and investments, and earnings from investments, credited and to be credited thereto.

(O) "Improvement fund" means the applicable fund created for the payment of costs of capital facilities under section 123.201, 154.20, 154.21, or 154.22 of the Revised Code, including all moneys and investments, and earnings from investments, credited and to be credited thereto.

(P) "Special funds" or "funds" means, except where the context does not permit, the bond service funds, the improvements funds, and any other funds for similar or different purposes created under bond proceedings, including all moneys and investments, and earnings from investments, credited and to be credited thereto.

(Q) "Year" unless the context indicates a different meaning or intent, means a calendar year beginning on the first day of January and ending on the thirty-first day of December.

(R) "Fiscal year" means the period of twelve months beginning on the first day of July and ending on the thirtieth day of June.

(S) "Issuing authority" means the treasurer of state or the officer or employee who by law performs the functions of that office.

(T) "Credit enhancement facilities" has the same meaning as in section 133.01 of the Revised Code.

(U) "Ohio cultural facility" and "Ohio sports facility" have the same meanings as in section 123.28 of the Revised Code.

Sec. 154.22. (A) Subject to authorization by the general assembly under section 154.02 of the Revised Code, the issuing authority may authorize and

issue obligations pursuant to this chapter to pay costs of capital facilities for parks and recreation.

(B) Any capital facilities for parks and recreation may be leased by the commission to the department of natural resources and other agreements may be made by the commission and such department with respect to the use or purchase of such capital facilities or, subject to the approval of the director of such department, the commission may lease such capital facilities to, and make other agreements with respect to their use or purchase with, any governmental agency having authority under law to operate such capital facilities, and the director of such department may sublease such capital facilities to, and make other agreements with respect to the use or purchase thereof with, any such governmental agency, or such director may sublease or contract for the operation of such capital facilities in accordance with the applicable provisions of sections 1501.09, 1501.091, and 1501.10 of the Revised Code, all upon such terms and conditions as the parties may agree upon and pursuant to this chapter, notwithstanding any other provisions of law affecting the leasing, acquisition, or disposition of capital facilities by such parties.

(C) For purposes of this section, "available receipts" means all receipts, including fees, charges, and rentals, derived or to be derived from state parks and public service facilities in any state park or parks, any other receipts of state agencies with respect to parks and recreational facilities, any revenues or receipts derived by the commission from the operation, leasing, or other disposition of capital facilities financed under this section, the proceeds of obligations issued under this section and sections 154.11 and 154.12 of the Revised Code, and also means any gifts, grants, donations, and pledges, and receipts thereon, available for the payment of bond service charges on obligations issued under this section. The issuing authority may pledge all, or such portion as it determines, of the available receipts to the payment of bond service charges on obligations issued under this section and sections 154.11 and 154.12 of the Revised Code and for the establishment and maintenance of any reserves, as provided in the bond proceedings, and make other provisions therein with respect to such available receipts as authorized by this chapter, which provisions shall be controlling notwithstanding any other provision of law pertaining thereto.

(D) The issuing authority may covenant in the bond proceeding that the state and state agencies shall, so long as any obligations issued under this section are outstanding, cause to be charged and collected fees, charges, and rentals for the use of state parks and public service facilities and other fees and charges with respect to parks and recreation sufficient in amount to

provide for the payment of bond service charges on such obligations and for the establishment and maintenance of any reserves as provided in the bond proceedings, and such covenants shall be controlling notwithstanding any other provision of law pertaining to such charges except any provision of law prohibiting or limiting charges for the use of swimming facilities of state parks and public service facilities by persons under sixteen years of age.

(E) There is hereby created the parks and recreation bond service trust fund, which shall be in the custody of the treasurer of state but shall be separate and apart from and not a part of the state treasury. All moneys received by or on account of the commission or issuing authority or state agencies and required by the applicable bond proceedings to be deposited, transferred, or allocated to or received for the purposes of the trust fund shall be deposited with the treasurer of state and credited to such fund, subject to applicable provisions of the bond proceedings but without necessity for any act of appropriation. The trust fund is hereby pledged to the payment of bond service charges on the obligations issued pursuant to this section and sections 154.11 and 154.12 of the Revised Code to the extent provided in the applicable bond proceedings, and payment thereof from such fund shall be made or provided for by the treasurer of state in accordance with such bond proceedings without necessity for any act of appropriation.

(F) There is hereby created in the state treasury the parks and recreation improvement fund. Subject to the bond proceedings therefor, all of the proceeds of the sale of obligations issued pursuant to this section shall be credited to such fund, except that any accrued interest received shall be credited to the parks and recreation bond service trust fund. The parks and recreation improvement fund may also be comprised of gifts, grants, appropriated moneys, and other sums and securities received to the credit of such fund. Such fund shall be applied only to the purpose of paying costs of capital facilities for parks and recreation under the jurisdiction of the department of natural resources or for participation in capital facilities for parks and recreation with the federal government, municipal corporations, counties, or other governmental agencies, or any one or more of them, which participation may be by grants or contributions to them for such capital facilities. All investment earnings on the cash balance in the fund shall be credited to the fund.

(G) All state parks shall be exclusively under the control and administration of the division of parks and ~~recreation~~ watercraft. With the approval of the recreation and resources council created in section 1501.04

of the Revised Code, the director of natural resources may by order remove from the classification as state parks any of the lands or interests therein referred to in divisions (M)(2) and (3) of section 154.01 of the Revised Code, subject to the limitations, provisions, and conditions in any order authorizing state park revenue bonds, in any trust agreement securing such bonds, or in bond proceedings with respect to obligations issued pursuant to this section. Lands or interests therein so removed shall be transferred to other divisions of the department for administration or may be sold as provided by law. Proceeds of any sale shall be used or transferred as provided in the order authorizing state park revenue bonds or in such trust agreement, or in bond proceedings with respect to obligations issued pursuant to this section, and if no such provision is made shall be transferred to the state park fund created by section ~~1541.22~~ 1546.21 of the Revised Code.

(H) This section shall be applied with other applicable provisions of this chapter.

(I) Any instrument by which real property is acquired pursuant to this section shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

Sec. 742.63. The board of trustees of the Ohio police and fire pension fund shall adopt rules for the management of the Ohio public safety officers death benefit fund and for disbursements of benefits as set forth in this section.

(A) As used in this section:

(1) "Member" means all of the following:

(a) A member of the Ohio police and fire pension fund, including a member of the fund who has elected to participate in the deferred retirement option plan established under section 742.43 of the Revised Code or a member of or contributor to a police or firemen's relief and pension fund established under former Chapter 521. or 741. of the Revised Code;

(b) A member of the state highway patrol retirement system, including a member who is participating in the deferred retirement option plan established under section 5505.50 of the Revised Code;

(c) A member of the public employees retirement system who at the time of the member's death was one of the following:

(i) A county sheriff or deputy sheriff;

(ii) A full-time regular police officer in a municipal corporation or township;

(iii) A full-time regular firefighter employed by the state, an instrumentality of the state, a municipal corporation, a township, a joint fire

district, or another political subdivision;

(iv) A full-time park district ranger or patrol trooper;

(v) A full-time law enforcement officer of the department of natural resources;

(vi) A full-time department of public safety enforcement agent;

(vii) A full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of a municipal corporation;

(viii) A full-time law enforcement officer of a conservancy district;

(ix) A correction officer at an institution under the control of a county, a group of counties, a municipal corporation, or the department of rehabilitation and correction;

(x) A state university law enforcement officer;

(xi) An investigator, as defined in section 109.541 of the Revised Code, or an investigator commissioned as a special agent of the bureau of criminal identification and investigation;

(xii) A drug agent, as defined in section 145.01 of the Revised Code;

(xiii) A gaming agent, as defined in section 3772.01 of the Revised Code;

(xiv) An employee of the department of taxation who has been delegated investigation powers pursuant to section 5743.45 of the Revised Code for the enforcement of Chapters 5728., 5735., 5739., 5741., 5743., and 5747. of the Revised Code.

(d) A member of a retirement system operated by a municipal corporation who at the time of death was a full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of the municipal corporation.

(2) Notwithstanding section 742.01 of the Revised Code, "fire or police department" includes a fire department of the state or an instrumentality of the state or of a municipal corporation, township, joint fire district, or other political subdivision, the state highway patrol, a county sheriff's office, the security force of an institution under the control of the department of rehabilitation and correction, the security force of a jail or workhouse under the control of a county, group of counties, or municipal corporation, the security force of a metropolitan, county, or township park district, the security force of lands under the control of the department of natural resources, department of public safety enforcement agents, the security force of parks, waterway lands, or reservoir lands under the control of a municipal corporation, the security force of a conservancy district, the police department of a township or municipal corporation, and the police force of a state university.



(3) "Firefighter or police officer" includes a state highway patrol trooper, a county sheriff or deputy sheriff, a correction officer at an institution under the control of a county, a group of counties, a municipal corporation, or the department of rehabilitation and correction, a police officer employed by a township or municipal corporation, a firefighter employed by the state, an instrumentality of the state, a municipal corporation, a township, a joint fire district, or another political subdivision, a full-time park district ranger or patrol trooper, a full-time law enforcement officer of the department of natural resources, a full-time department of public safety enforcement agent, a full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of a municipal corporation, a full-time law enforcement officer of a conservancy district, and a state university law enforcement officer.

(4) "Correction officer" includes, in addition to any correction officer, any correction corporal, sergeant, lieutenant, or captain, and the equivalents of all such persons.

(5) "A park district ranger or patrol trooper" means a peace officer commissioned to make arrests, execute warrants, and preserve the peace upon lands under the control of a board of park commissioners of a metropolitan, county, or township park district.

(6) "Metropolitan, county, or township park district" means a park district created under the authority of Chapter 511. or 1545. of the Revised Code.

(7) "Conservancy district" means a conservancy district created under the authority of Chapter 6101. of the Revised Code.

(8) "Law enforcement officer" means an officer commissioned to make arrests, execute warrants, and preserve the peace upon lands under the control of the governmental entity granting the commission.

(9) "Department of natural resources law enforcement officer" includes ~~a forest officer designated pursuant to section 1503.29 of the Revised Code, a preserve officer designated pursuant to section 1517.10 of the Revised Code~~ forest-fire investigator appointed pursuant to section 1503.09 of the Revised Code, a wildlife officer designated pursuant to section 1531.13 of the Revised Code, ~~a park officer designated pursuant to section 1541.10 of the Revised Code, and a state watercraft~~ natural resources officer designated appointed pursuant to section 1547.521 1501.24 of the Revised Code.

(10) "Retirement eligibility date" means the last day of the month in which a deceased member would have first become eligible, had the member lived, for the retirement pension provided under section 145.332, Chapter 145., 521., or 741., division (C)(1) of section 742.37, or division

(A)(1) of section 5505.17 of the Revised Code or provided by a retirement system operated by a municipal corporation.

(11) "Death benefit amount" means an amount equal to the full monthly salary received by a deceased member prior to death, minus an amount equal to the benefit received under section 145.45, 742.37, 742.3714, or 5505.17 of the Revised Code or the benefit received from a retirement system operated by a municipal corporation, plus any increases in salary that would have been granted the deceased member.

(12) "Killed in the line of duty" means either of the following:

(a) Death in the line of duty;

(b) Death from injury sustained in the line of duty, including heart attack or other fatal injury or illness caused while in the line of duty.

(B) A spouse of a deceased member shall receive a death benefit each month equal to the full death benefit amount, provided that the deceased member was a firefighter or police officer killed in the line of duty and there are no surviving children eligible for a benefit under this section. The spouse shall receive this benefit during the spouse's natural life until the deceased member's retirement eligibility date, on which date the benefit provided under this division shall terminate.

(C)(1) If a member killed in the line of duty as a firefighter or police officer is survived only by a child or children, the child or children shall receive a benefit each month equal to the full death benefit amount. If there is more than one surviving child, the benefit shall be divided equally among these children.

(2) If the death benefit paid under this division is divided among two or more surviving children and any of the children become ineligible to continue receiving a portion of the benefit as provided in division (H) of this section, the full death benefit amount shall be paid to the remaining eligible child or divided among the eligible children so that the benefit paid to the remaining eligible child or children equals the full death benefit amount.

(3) Notwithstanding divisions (C)(1) and (2) of this section, all death benefits paid under this division shall terminate on the deceased member's retirement eligibility date.

(D) If a member killed in the line of duty as a firefighter or police officer is survived by both a spouse and a child or children, the monthly benefit provided shall be as follows:

(1)(a) If there is a surviving spouse and one surviving child, the spouse shall receive an amount each month equal to one-half of the full death benefit amount and the child shall receive an amount equal to one-half of the full death benefit amount.

(b) If the surviving spouse dies or the child becomes ineligible as provided in division (H) of this section, the surviving spouse or child remaining eligible shall receive the full death benefit amount.

(2)(a) If there is a surviving spouse and more than one child, the spouse shall receive an amount each month equal to one-third of the full death benefit amount and the children shall receive an amount, equally divided among them, equal to two-thirds of the full death benefit amount.

(b) If a spouse and more than one child each are receiving a death benefit under division (D)(2)(a) of this section and the spouse dies, the children shall receive an amount each month, equally divided among them, equal to the full death benefit amount.

(c) If a spouse and more than one child each are receiving a benefit under division (D)(2)(a) of this section and any of the children becomes ineligible to receive a benefit as provided in division (H) of this section, the spouse and remaining eligible child or children shall receive a death benefit as follows:

(i) If there are two or more remaining eligible children, the spouse shall receive an amount each month equal to one-third of the full death benefit amount and the children shall receive an amount each month, equally divided among them, equal to two-thirds of the full death benefit amount;

(ii) If there is one remaining eligible child, the spouse shall receive an amount each month equal to one-half of the full death benefit amount, and the child shall receive an amount each month equal to one-half of the full death benefit amount.

(d) If a spouse and more than one child each are receiving a benefit under division (D)(2)(a) of this section and all of the children become ineligible to receive a benefit as provided in division (H) of this section, the spouse shall receive the full death benefit amount.

(3) Notwithstanding divisions (D)(1) and (2) of this section, death benefits paid under this division to a surviving spouse shall terminate on the member's retirement eligibility date. Death benefits paid to a surviving child or children shall terminate on the deceased member's retirement eligibility date unless earlier terminated pursuant to division (H) of this section.

(E) If a member, on or after January 1, 1980, is killed in the line of duty as a firefighter or police officer and is survived by only a parent or parents dependent upon the member for support, the parent or parents shall receive an amount each month equal to the full death benefit amount. If there is more than one surviving parent dependent upon the deceased member for support, the death benefit amount shall be divided equally among the surviving parents. On the death of one of the surviving parents, the full

death benefit amount shall be paid to the other parent.

(F)(1) The following shall receive a monthly death benefit under this division:

(a) A surviving spouse whose benefits are terminated in accordance with division (B) or (D)(3) of this section on the deceased member's retirement eligibility date, or who would qualify for a benefit under division (B) or (D) of this section except that the deceased member reached the member's retirement eligibility date prior to the member's death;

(b) A qualified surviving spouse of a deceased member of or contributor to a police or firemen's relief and pension fund established under former Chapter 521. or 741. of the Revised Code who was a firefighter or police officer killed in the line of duty.

(2) The monthly death benefit shall be one-half of an amount equal to the monthly salary received by the deceased member prior to the member's death, plus any salary increases the deceased member would have received prior to the member's retirement eligibility date. The benefit shall terminate on the surviving spouse's death. A death benefit payable under this division shall be reduced by an amount equal to any allowance or benefit payable to the surviving spouse under section 742.3714 of the Revised Code.

(3) A benefit granted to a surviving spouse under division (F)(1)(b) of this section shall commence on the first day of the month immediately following receipt by the board of a completed application on a form provided by the board and any evidence the board may require to establish that the deceased spouse was killed in the line of duty.

(G)(1) If there is not a surviving spouse eligible to receive a death benefit under division (F) of this section or the surviving spouse receiving a death benefit under that division dies, a surviving child or children whose benefits under division (C) or (D) of this section are or have been terminated pursuant to division (C)(3) or (D)(3) of this section or who would qualify for a benefit under division (C) or (D) of this section except that the deceased member reached the member's retirement eligibility date prior to the member's death shall receive a monthly death benefit under this division. The monthly death benefit shall be one-half of an amount equal to the monthly salary received by the deceased member prior to the member's death, plus any salary increases the member would have received prior to the member's retirement eligibility date. If there is more than one surviving child, the benefit shall be divided equally among the surviving children.

(2) If two or more surviving children each are receiving a benefit under this division and any of those children becomes ineligible to continue receiving a benefit as provided in division (H) of this section, the remaining

eligible child or children shall receive an amount equal to one-half of the monthly salary received by the deceased member prior to death, plus any salary increases the deceased member would have received prior to the retirement eligibility date. If there is more than one remaining eligible child, the benefit shall be divided equally among the eligible children.

(3) A death benefit, or portion of a death benefit, payable to a surviving child under this division shall be reduced by an amount equal to any allowance or benefit payable to that child under section 742.3714 of the Revised Code, but the reduction in that child's benefit shall not affect the amount payable to any other surviving child entitled to a portion of the death benefit.

(H) A death benefit paid to a surviving child under division (C), (D), or (G) of this section shall terminate on the death of the child or, unless one of the following is the case, when the child reaches age eighteen:

(1) The child, because of physical or mental disability, is unable to provide the child's own support, in which case the death benefit shall terminate when the disability is removed;

(2) The child is unmarried, under age twenty-two, and a student in and attending an institution of learning or training pursuant to a program designed to complete in each school year the equivalent of at least two-thirds of the full-time curriculum requirements of the institution, as determined by the trustees of the fund.

(I) Acceptance of any death benefit under this section does not prohibit a spouse or child from receiving other benefits provided under the Ohio police and fire pension fund, the state highway patrol retirement system, the public employees retirement system, or a retirement system operated by a municipal corporation.

(J) No person shall receive a benefit under this section if any of the following occur:

(1) The person fails to exercise the right to a monthly survivor benefit under division (A) or (B) of section 145.45, division (D), (E), or (F) of section 742.37, or division (A)(3), (4), or (6) of section 5505.17 of the Revised Code; to a monthly survivor benefit from a retirement system operated by a municipal corporation; or to a retirement allowance under section 742.3714 of the Revised Code.

(2) The member's accumulated contributions under this chapter or Chapter 145. or 5505. of the Revised Code are refunded unless the member had been a member of the public employees retirement system and had fewer than eighteen months of total service credit at the time of death.

(3) In the case of a full-time park district ranger or patrol trooper, a

full-time law enforcement officer of the department of natural resources, a full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of a municipal corporation, a full-time law enforcement officer of a conservancy district, a correction officer at an institution under the control of a county, group of counties, or municipal corporation, or a member of a retirement system operated by a municipal corporation who at the time of the member's death was a full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of the municipal corporation, the member died prior to April 9, 1981, in the case of a benefit under division (B), (C), or (D) of this section, or prior to January 1, 1980, in the case of a benefit under division (E) of this section.

(4) In the case of a full-time department of public safety enforcement agent who prior to June 30, 1999, was a liquor control investigator of the department of public safety, the member died prior to December 23, 1986;

(5) In the case of a full-time department of public safety enforcement agent other than an enforcement agent who, prior to June 30, 1999, was a liquor control investigator, the member died prior to June 30, 1999.

(K) A surviving spouse whose benefit was terminated prior to June 30, 1999, due to remarriage shall receive a benefit under division (B), (D), or (F) of this section beginning on the first day of the month following receipt by the board of an application on a form provided by the board. The benefit amount shall be determined as of that date.

(1) If the benefit will begin prior to the deceased member's retirement eligibility date, it shall be paid under division (B) or (D) of this section and shall terminate as provided in those divisions. A benefit paid to a surviving spouse under division (D) of this section shall be determined in accordance with that division, even if benefits paid to surviving children are reduced as a result.

(2) If the benefit will begin on or after the deceased member's retirement eligibility date, it shall be paid under division (F) of this section and shall terminate as provided in that division. A benefit paid to a surviving spouse under division (F) of this section shall be determined in accordance with that division, even if benefits paid to surviving children are terminated as a result.

Sec. 903.01. As used in this chapter:

(A) "Agricultural animal" means any animal generally used for food or in the production of food, including cattle, sheep, goats, rabbits, poultry, and swine; horses; alpacas; llamas; and any other animal included by the director of agriculture by rule. "Agricultural animal" does not include fish or other

aquatic animals regardless of whether they are raised at fish hatcheries, fish farms, or other facilities that raise aquatic animals.

(B) "Animal feeding facility" means a lot, building, or structure where both of the following conditions are met:

(1) Agricultural animals have been, are, or will be stabled or confined and fed or maintained there for a total of forty-five days or more in any twelve-month period.

(2) Crops, vegetative forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot, building, or structure.

"Animal feeding facility" also includes land that is owned or leased by or otherwise is under the control of the owner or operator of the lot, building, or structure and on which manure originating from agricultural animals in the lot, building, or structure or a production area is or may be applied.

Two or more animal feeding facilities under common ownership shall be considered to be a single animal feeding facility for the purposes of this chapter if they adjoin each other or if they use a common area or system for the disposal of manure.

(C) "Animal feeding operation" has the same meaning as "animal feeding facility."

(D) "Cattle" includes, but is not limited to, heifers, steers, bulls, and cow and calf pairs.

(E) "Concentrated animal feeding facility" means an animal feeding facility with a total design capacity equal to or more than the number of animals specified in any of the categories in division (M) of this section.

(F) "Concentrated animal feeding operation" means an animal feeding facility that complies with one of the following:

(1) Has a total design capacity equal to or more than the number of animals specified in any of the categories in division (M) of this section;

(2) Satisfies the criteria in division (M), (Q), or ~~(FF)~~(EE) of this section;

(3) Is designated by the director of agriculture as a medium or small concentrated animal feeding operation pursuant to rules.

(G) "Discharge" means to add from a point source to waters of the state.

(H) "Federal Water Pollution Control Act" means the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 816, 33 U.S.C. 1251 et. seq., as amended, and regulations adopted under it.

(I) "Finalized," with respect to the programs required under division (A)(1) of section 903.02 and division (A)(1) of section 903.03 of the Revised Code, means that all rules that are necessary for the administration

of this chapter have been adopted and all employees of the department of agriculture that are necessary for the administration of this chapter have been employed.

(J) "General permit" has the meaning that is established in rules.

(K) "Individual permit" has the meaning that is established in rules.

(L) "Installation permit" means a permit for the installation or modification of a disposal system or any part of a disposal system issued by the director of environmental protection under division (J)(1) of section 6111.03 of the Revised Code.

(M) "Large concentrated animal feeding operation" means an animal feeding facility that stables or confines at least the number of animals specified in any of the following categories:

(1) Seven hundred mature dairy cattle whether milked or dry;

(2) One thousand veal calves;

(3) One thousand cattle other than mature dairy cattle or veal calves;

(4) Two thousand five hundred swine that each weigh fifty-five pounds or more;

(5) Ten thousand swine that each weigh less than fifty-five pounds;

(6) Five hundred horses;

(7) Ten thousand sheep or lambs;

(8) Fifty-five thousand turkeys;

(9) Thirty thousand laying hens or broilers if the animal feeding facility uses a liquid manure handling system;

(10) One hundred twenty-five thousand chickens, other than laying hens, if the animal feeding facility uses a manure handling system that is not a liquid manure handling system;

(11) Eighty-two thousand laying hens if the animal feeding facility uses a manure handling system that is not a liquid manure handling system;

(12) Thirty thousand ducks if the animal feeding facility uses a manure handling system that is not a liquid manure handling system;

(13) Five thousand ducks if the animal feeding facility uses a liquid manure handling system.

(N) "Major concentrated animal feeding facility" means a concentrated animal feeding facility with a total design capacity of more than ten times the number of animals specified in any of the categories in division (M) of this section.

(O) "Manure" means any of the following wastes used in or resulting from the production of agricultural animals or direct agricultural products such as milk or eggs: animal excreta, discarded products, bedding, process waste water, process generated waste water, waste feed, silage drainage, and



compost products resulting from mortality composting or the composting of animal excreta.

(P) "Manure storage or treatment facility" means any excavated, diked, or walled structure or combination of structures designed for the biological stabilization, holding, or storage of manure.

(Q) "Medium concentrated animal feeding operation" means an animal feeding facility that satisfies both of the following:

(1) The facility stables or confines the number of animals specified in any of the following categories:

(a) Two hundred to six hundred ninety-nine mature dairy cattle whether milked or dry;

(b) Three hundred to nine hundred ninety-nine veal calves;

(c) Three hundred to nine hundred ninety-nine cattle other than mature dairy cattle or veal calves;

(d) Seven hundred fifty to two thousand four hundred ninety-nine swine that each weigh fifty-five pounds or more;

(e) Three thousand to nine thousand nine hundred ninety-nine swine that each weigh less than fifty-five pounds;

(f) One hundred fifty to four hundred ninety-nine horses;

(g) Three thousand to nine thousand nine hundred ninety-nine sheep or lambs;

(h) Sixteen thousand five hundred to fifty-four thousand nine hundred ninety-nine turkeys;

(i) Nine thousand to twenty-nine thousand nine hundred ninety-nine laying hens or broilers if the animal feeding facility uses a liquid manure handling system;

(j) Thirty-seven thousand five hundred to one hundred twenty-four thousand nine hundred ninety-nine chickens, other than laying hens, if the animal feeding facility uses a manure handling system that is not a liquid manure handling system;

(k) Twenty-five thousand to eighty-one thousand nine hundred ninety-nine laying hens if the animal feeding facility uses a manure handling system that is not a liquid manure handling system;

(l) Ten thousand to twenty-nine thousand nine hundred ninety-nine ducks if the animal feeding facility uses a manure handling system that is not a liquid manure handling system;

(m) One thousand five hundred to four thousand nine hundred ninety-nine ducks if the animal feeding facility uses a liquid manure handling system.

(2) The facility does one of the following:

(a) Discharges pollutants into waters of the United States through a ditch constructed by humans, a flushing system constructed by humans, or another similar device constructed by humans;

(b) Discharges pollutants directly into waters of the United States that originate outside of and that pass over, across, or through the facility or otherwise come into direct contact with the animals at the facility.

"Medium concentrated animal feeding operation" includes an animal feeding facility that is designated by the director as a medium concentrated animal feeding operation pursuant to rules.

(R) "Mortality composting" means the controlled decomposition of organic solid material consisting of dead animals that stabilizes the organic fraction of the material.

(S) "NPDES permit" means a permit issued under the national pollutant discharge elimination system established in section 402 of the Federal Water Pollution Control Act and includes the renewal of such a permit. "NPDES permit" includes the federally enforceable provisions of a permit to operate into which NPDES permit provisions have been incorporated.

(T) "Permit" includes an initial, renewed, or modified permit to install, permit to operate, NPDES permit, and installation permit unless expressly stated otherwise.

(U) "Permit to install" means a permit issued under section 903.02 of the Revised Code.

(V) "Permit to operate" means a permit issued or renewed under section 903.03 of the Revised Code and includes incorporated NPDES permit provisions, if applicable.

(W) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes the state, any political subdivision of the state, any interstate body created by compact, the United States, or any department, agency, or instrumentality of any of those entities.

(X) "Point source" has the same meaning as in the Federal Water Pollution Control Act.

(Y) "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials except those regulated under the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C. 2011, as amended, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste, including manure, discharged into water. "Pollutant" does not include either of the following:

(1) Sewage from vessels;

(2) Water, gas, or other material that is injected into a well to facilitate

production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well that is used either to facilitate production or for disposal purposes is approved by the state and if the state determines that the injection or disposal will not result in the degradation of ground or surface water resources.

(Z) "Process generated waste water" means water that is directly or indirectly used in the operation of an animal feeding facility for any of the following:

- (1) Spillage or overflow from animal watering systems;
- (2) Washing, cleaning, or flushing pens, barns, manure pits, or other areas of an animal feeding facility;
- (3) Direct contact swimming, washing, or spray cooling of animals;
- (4) Dust control.

(AA) "Process waste water" means any process generated waste water and any precipitation, including rain or snow, that comes into contact with manure, litter, bedding, or any other raw material or intermediate or final material or product used in or resulting from the production of animals or direct products such as milk or eggs.

(BB) "Production area" means any of the following components of an animal feeding facility:

- (1) Animal confinement areas, including, but not limited to, open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, animal walkways, and stables;
- (2) Manure storage areas, including, but not limited to, manure storage or treatment facilities;
- (3) Raw material storage areas, including, but not limited to, feed silos, silage bunkers, commodity buildings, and bedding materials;
- (4) Waste containment areas, including, but not limited to, any of the following:

- (a) An egg washing or egg processing facility;
- (b) An area used in the storage, handling, treatment, or disposal of mortalities;
- (c) Settling basins, runoff ponds, liquid impoundments, and areas within berms and diversions that are designed and maintained to separate uncontaminated storm water runoff from contaminated water and to contain and treat contaminated storm water runoff.

(CC) "Public meeting" means a nonadversarial public hearing at which a person may present written or oral statements for the director's consideration and includes public hearings held under section 6111.12 of the

Revised Code.

(DD) "Rule" means a rule adopted under section 903.10 of the Revised Code.

(EE) "Small concentrated animal feeding operation" means an animal feeding facility that is not a large or medium concentrated animal feeding operation and that is designated by the director as a small concentrated animal feeding operation pursuant to rules.

(FF) "Waters of the state" has the same meaning as in section 6111.01 of the Revised Code.

Sec. 1501.011. (A) Except as provided in divisions (B), (C), and (D) of this section, the Ohio facilities construction commission shall supervise the design and construction of, and make contracts for the construction, reconstruction, improvement, enlargement, alteration, repair, or decoration of, any projects or improvements for the department of natural resources that may be authorized by legislative appropriations or any other funds available therefor, the estimated cost of which amounts to two hundred thousand dollars or more or the amount determined pursuant to section 153.53 of the Revised Code or more.

(B)(1) The department of natural resources shall supervise the design and construction of, and make contracts for the construction, reconstruction, improvement, enlargement, alteration, repair, or decoration of, any of the following activities, projects, or improvements:

(a) Dam repairs administered by the division of engineering under Chapter 1507. of the Revised Code;

(b) Projects or improvements administered by the division of parks and watercraft and funded through the waterways safety fund established in section 1547.75 of the Revised Code;

(c) Projects or improvements administered by the division of wildlife under Chapter 1531. or 1533. of the Revised Code;

(d) Activities conducted by the department pursuant to section 5511.05 of the Revised Code in order to maintain the department's roadway inventory.

(2) If a contract to be let under division (B)(1) of this section involves an exigency that concerns the public health, safety, or welfare or addresses an emergency situation in which timeliness is crucial in preventing the cost of the contract from increasing significantly, pursuant to the declaration of a public exigency, the department may award the contract without competitive bidding or selection as otherwise required by Chapter 153. of the Revised Code.

A notice published by the department of natural resources regarding an

activity, project, or improvement shall be published as contemplated in section 7.16 of the Revised Code.

(C) The executive director of the Ohio facilities construction commission may authorize the department of natural resources to administer any other project or improvement, the estimated cost of which, including design fees, construction, equipment, and contingency amounts, is not more than one million five hundred thousand dollars.

Sec. 1501.012. (A) The director of natural resources may lease lands in state parks, as defined in section 1501.07 of the Revised Code, and contract for the construction and operation of public service facilities, as mentioned in that section, and for major renovation or remodeling of existing public service facilities by the lessees on those lands. If the director determines that doing so would be consistent with long-range planning of the department of natural resources and in the best interests of the department and the division of parks and ~~recreation~~ watercraft in the department, the director shall negotiate and execute a lease and contract for those purposes in accordance with this chapter except as otherwise provided in this section.

(B) With the approval of the recreation and resources council created under section 1501.04 of the Revised Code, the director shall draft a statement of intent describing any public service facility that the department wishes to have constructed in accordance with this section and establishing a procedure for the submission of proposals for providing the facility, including, but not limited to, a requirement that each prospective bidder or lessee of land shall submit with the proposal a completed questionnaire and financial statement, on forms prescribed and furnished by the department, to enable the department to ascertain the person's financial worth and experience in maintaining and operating facilities similar or related to the public service facility in question. The completed questionnaire and financial statement shall be verified under oath by the prospective bidder or lessee. Questionnaires and financial statements submitted under this division are confidential and are not open to public inspection. Nothing in this division shall be construed to prevent use of or reference to questionnaires and financial statements in a civil action or criminal prosecution commenced by the state.

The director shall publish the statement of intent in at least three daily newspapers of general circulation in the state at least once each week for four consecutive weeks. The director then shall accept proposals in response to the statement of intent for at least thirty days following the final publication of the statement. At the end of the period during which proposals may be submitted under this division, the director shall select the

proposal that the director determines best complies with the statement of intent and may negotiate a lease and contract with the person that submitted that proposal.

(C) Any lease and contract negotiated under this section shall include in its terms and conditions all of the following:

(1) The legal description of the leasehold;

(2) The duration of the lease and contract, which shall not exceed forty years, and a requirement that the lease and contract be nonrenewable;

(3) A requirement that the lessee maintain in full force and effect during the term of the lease and contract comprehensive liability insurance for injury, death, or loss to persons or property and fire casualty insurance for the public service facility and all its structures in an amount established by the director and naming the department as an additional insured;

(4) A requirement that the lessee maintain in full force and effect suitable performance bonds or other adequate security pertaining to the construction and operation of the public service facility;

(5) Detailed plans and specifications controlling the construction of the public service facility that shall include all of the following:

(a) The size and capacity of the facility;

(b) The type and quality of construction;

(c) Other criteria that the department considers necessary and advisable.

(6) The manner of rental payment;

(7) A stipulation that the director shall have control and supervision over all of the following:

(a) The operating season of the public service facility;

(b) The facility's hours of operation;

(c) The maximum rates to be charged guests using the facility;

(d) The facility's sanitary conditions;

(e) The quality of food and service furnished the guests of the facility;

(f) The lessee's general and structural maintenance responsibilities at the facility.

(8) The disposition of the leasehold and improvements at the expiration of the lease and contract;

(9) A requirement that the public service facility be available to all members of the public without regard to sex, race, color, creed, ancestry, national origin, or disability as defined in section 4112.01 of the Revised Code;

(10) Other terms and conditions that the director considers necessary and advisable to carry out the purposes of this section.

(D) The attorney general shall approve the form of the lease and

contract prior to its execution by the director.

(E) The authority granted in this section to the director is in addition and supplemental to any other authority granted the director under state law.

Sec. 1501.02. The director of natural resources may enter into cooperative or contractual arrangements with the United States or any agency or department thereof, other states, other departments and subdivisions of this state, or any other person or body politic for the accomplishment of the purposes for which the department of natural resources was created. The director shall cooperate with, and not infringe upon the rights of, other state departments, divisions, boards, commissions, and agencies, political subdivisions, and other public officials and public and private agencies in the conduct of conservation plans and other matters in which the interests of the department of natural resources and the other departments and agencies overlap.

The director, by mutual agreement, may utilize the facilities and staffs of state-supported educational institutions in order to promote the conservation and development of the natural resources of the state.

All funds made available by the United States for the exclusive use of any division shall be expended only by that division and only for the purposes for which the funds were appropriated. In accepting any such funds for the acquisition of lands or interests in them to be used for open-space purposes including park, recreational, historical, or scenic purposes, or for conservation of land or other natural resources, the director may agree on behalf of the state that lands or interests in them acquired in part with those funds shall not be converted to other uses except pursuant to further agreement between the director and the United States.

The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing guidelines for entering into and may enter into a cooperative or contractual arrangement with any individual, agency, organization, or business entity to assist the department in funding a program or project of the department, its divisions, or its offices, through securing, without limitation, donations, sponsorships, marketing, advertising, and licensing arrangements. State moneys appropriated to the department shall continue to be used as authorized and shall not be redirected to any other purpose as a result of financial savings resulting from the department's entering into the cooperative or contractual arrangement.

The director may enter into a mutual aid compact with the chief law enforcement officer of any federal agency, state agency, county, township, municipal corporation, or other political subdivision or with the superintendent of the state highway patrol to enable ~~forest officers, preserve~~

~~officers, park officers,~~ forest-fire investigators and ~~state watercraft~~ natural resources officers and the law enforcement officers of the respective federal or state agencies or political subdivisions or the state highway patrol to assist each other in the provision of police services within each other's jurisdiction.

Sec. 1501.07. The department of natural resources through the division of parks and ~~recreation~~ watercraft may plan, supervise, acquire, construct, enlarge, improve, erect, equip, and furnish public service facilities such as inns, lodges, hotels, cottages, camping sites, scenic trails, picnic sites, restaurants, commissaries, golf courses, boating and bathing facilities, and other similar facilities in state parks reasonably necessary and useful in promoting the public use of state parks under its control and may purchase lands or interests in lands in the name of the state necessary for those purposes.

The chief of the division of parks and ~~recreation~~ watercraft shall administer state parks, establish rules, fix fees and charges for admission to parks and for the use of public service facilities therein, establish rentals for the lease of lands or interests therein within a state park the chief is authorized by law to lease, and exercise all powers of the chief, in conformity with all covenants of the director of natural resources in or with respect to state park revenue bonds and trust agreements securing such bonds and all terms, provisions, and conditions of such bonds and trust agreements. In the administration of state parks with respect to which state park revenue bonds are issued and outstanding, or any part of the moneys received from fees and charges for admission to or the use of facilities, from rentals for the lease of lands or interests or facilities therein, or for the lease of public service facilities are pledged for any such bonds, the chief shall exercise the powers and perform the duties of the chief subject to the control and approval of the director. The acquisition of such lands or interests therein and facilities shall be planned with regard to the needs of the people of the state and with regard to the purposes and uses of such state parks and, except for facilities constructed in consideration of a lease under section 1501.012 of the Revised Code, shall be paid for from the state park fund created in section ~~1541.22~~ 1546.21 of the Revised Code or from the proceeds of the sale of bonds issued under sections 1501.12 to 1501.15 of the Revised Code. Sections 125.81 and 153.04 of the Revised Code, insofar as they require a certification by the chief of the division of capital planning and improvement, do not apply to the acquisition of lands or interests therein and public service facilities to be paid for from the proceeds of bonds issued under sections 1501.12 to 1501.15 of the Revised Code.



As used in sections 1501.07 to 1501.14 of the Revised Code, state parks are all of the following:

(A) State reservoirs described and identified in section ~~1541.06~~ 1546.11 of the Revised Code;

(B) All lands or interests therein that are denominated as state parks in section ~~1541.083~~ 1546.14 of the Revised Code;

(C) All lands or interests therein of the state identified as administered by the division of parks and ~~recreation~~ watercraft in the "inventory of state owned lands administered by department of natural resources as of June 1, 1963," as recorded in the journal of the director, which inventory was prepared by the real estate section of the department and is supported by maps on file with the division;

(D) All lands or interests in lands of the state hereafter designated as state parks in the journal of the director with the approval of the recreation and resources council created in section 1501.04 of the Revised Code.

All such state parks shall be exclusively under the control and administration of the division of parks and ~~recreation~~ watercraft. With the approval of the council, the director by order may remove from the classification as state parks any of the lands or interests therein so classified by divisions (C) and (D) of this section, subject to the limitations, provisions, and conditions in any order authorizing state park revenue bonds or in any trust agreement securing such bonds. Lands or interests therein so removed shall be transferred to other divisions of the department for administration or may be sold as provided by law. Proceeds of any sale shall be used or transferred as provided in the order authorizing state park revenue bonds or in the trust agreement and, if no such provision is made, shall be transferred to the state park fund. State parks do not include any lands or interest in lands of the state administered jointly by two or more divisions of the department. The designation of lands as state parks under divisions (A) to (D) of this section shall be conclusive, and those lands shall be under the control of and administered by the division of parks and ~~recreation~~ watercraft. No order or proceeding designating lands as state parks or park purchase areas shall be subject to any appeal or review by any officer, board, commission, or court.

Sec. 1501.09. The public service facilities mentioned in section 1501.07 of the Revised Code may be leased by the department of natural resources for the operation thereof as provided in section 1501.10 of the Revised Code, or may be operated by any person, firm, partnership, association, or corporation under contract with the director of natural resources as provided in section 1501.012 or 1501.091 of the Revised Code, or may be operated

by the department through the division of parks and ~~recreation~~ watercraft. The leases for facilities may be bid individually or in any combination.

Any of those facilities may be leased or operated under contract without the necessity of competitive bidding for not more than two years.

Sec. 1501.11. (A) The revenue derived from the operation or ownership of state parks or public service facilities shall be paid into the state park fund in accordance with section ~~1541.22~~ 1546.21 of the Revised Code; provided, that at such times and to the extent and in the manner provided in the order of the director authorizing state park revenue bonds, or in the bond proceedings applicable to obligations issued pursuant to section 154.22 of the Revised Code, such revenues shall be set aside on their receipt and be paid directly to depositories or trustees designated in such order or in the trust agreement securing such state park revenue bonds, or shall be paid and credited as provided in such bond proceedings.

(B) The department of natural resources shall reimburse any township from the state park fund for any reasonable expenses the township incurs incident to the maintenance of roads under the jurisdiction of the department. The department may contract with the township trustees for the maintenance of land under the jurisdiction of the department.

Sec. 1501.12. (A) The director of natural resources, with the approval of the governor, may provide, at one time or from time to time, for the issuance of state park revenue bonds of the state, for the purpose of paying the cost of acquiring by purchase lands or interests therein to be used in the establishment or enlargement of state parks, and for the purpose of paying the cost of acquiring, constructing, enlarging, equipping, furnishing, and improving public service facilities in state parks and making land improvements incidental thereto. The principal of and interest on these bonds is payable solely from the revenues provided in section 1501.14 of the Revised Code. The bonds shall be authorized by order of the director of natural resources, approved by the governor, which shall recite an estimate by the director of the costs to be paid from the proceeds of the bond issue and provide for the issuance of bonds in an amount not in excess of the estimated cost. The bonds of each issue shall be dated, bear interest at a rate or rates not to exceed the rate provided in section 9.95 of the Revised Code, and mature at a time or times, not to exceed forty years from their date or dates, as determined by the director, and may be made redeemable before maturity, at the option of the director, at the price or prices and under the terms and conditions as fixed by the director prior to the issuance of the bonds. The director shall determine the form of the bonds, including the interest coupons to be attached thereto, and fix the denomination of the

bonds and the place of payment of principal and interest thereof, which may be at any bank or trust company within or without the state.

The bonds shall be signed by the governor, the secretary of state, and the director, provided that all but one of these signatures may be a facsimile, and shall have affixed the great seal of Ohio or a facsimile thereof. Coupons attached thereto shall bear the facsimile signature of the director. The bonds shall contain a statement on their face that the state is not obligated to pay the same or the interest thereon and that they do not constitute a debt, or a pledge of the faith and credit, of the state or of any political subdivision thereof, but that the bonds and the interest thereon are payable solely from the revenues provided in section 1501.14 of the Revised Code. In case any of the officers whose signatures or facsimiles thereof appear on the bonds or coupons ceases to be such an officer before delivery of the bonds, the signatures or facsimiles are nevertheless valid and sufficient for all purposes as if they had remained in office until delivery. All the bonds shall have all the qualities and incidents of negotiable instruments under the applicable law of this state, and the bonds and the interest thereon are exempt from all taxation within this state. The bonds are lawful investments of banks, savings banks, trust companies, savings and loan associations, deposit guarantee associations, fiduciaries, trustees, trustees of the sinking fund or officer in charge of the bond retirement fund of municipal corporations and other subdivisions of the state, and of domestic insurance companies notwithstanding sections 3907.14 and 3925.08 of the Revised Code, and are acceptable as security for deposit of public money.

The bonds may be issued in coupon or registered form, or both, as the director determines, and provision may be made for the registration of any coupon bonds as to principal alone and for the exchange of coupon bonds for bonds registered as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

For the purpose of refunding any state park revenue bonds then outstanding that have been issued under sections 1501.12 to 1501.15 of the Revised Code, including payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of the bonds, the director, with the approval of the governor, may provide by order for the issuance of state park revenue refunding bonds of the state. The issuance of the bonds, the maturities, revenues pledged for their payment, and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the director and chief of the division of parks and ~~recreation~~ watercraft in respect to the bonds is governed by the sections insofar as they

are applicable.

(B) The bonds shall be sold by the director to the highest bidder therefor, but for not less than the par value thereof plus accrued interest thereon, after a notice of sale has been published once a week for three consecutive weeks in one newspaper in each of the three most populous counties in the state. The notice of sale shall state the day, hour, and place of sale, the total principal amount of the bonds to be sold, their denominations, date, and the dates and amounts of their maturities, whether or not they are callable, information relative to the rates of interest that the bonds shall bear, and the dates upon which interest is payable, and any other information the director deems advisable.

(C) The proceeds of the bonds of each issue shall be used solely for the payment of the costs for which the bonds were issued, which cost shall include financing charges, interest during construction, legal fees, trustees' fees, and all other expenses incurred in connection with the issuance of the bonds, and shall be disbursed in a manner and under restrictions as the director provides in the order authorizing the issuance of the bonds or in the trust agreement, as provided in section 1501.13 of the Revised Code, securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, are less than that cost, additional bonds may in like manner be issued to provide the amount of the deficit, and, unless otherwise provided in the order authorizing the issuance of the bonds or in the trust agreement securing them, are deemed to be of the same issue and entitled to payments from the same fund, without preference or priority of the bonds first issued for the same facilities. If the proceeds of the bonds of any issue exceed the cost, the surplus shall be paid into a special fund to be established for payment of the principal and interest of the bonds as specified in the trust agreement securing them.

Sec. 1501.13. In the discretion of the director of natural resources any bonds issued under sections 1501.12 to 1501.15, inclusive, of the Revised Code, may be secured by a trust agreement between the director and a corporate trustee, which trustee may be any trust company or bank having the powers of a trust company within or without the state. Such bonds may also be secured by mortgage on such property wholly acquired through the proceeds of the sale of bonds.

Any such trust agreement may pledge or assign revenues to the payment of the principal of and interest on such bonds and reserves therefor as provided in section 1501.14 of the Revised Code but shall not convey or mortgage any property of the state, except as provided in sections 1501.07, 1501.11, 1501.12, and 1501.14 of the Revised Code. Any such trust

agreement may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as are reasonable and proper and not in violation of law including provisions for issue of additional revenue bonds for the purposes set forth in section 1501.12 of the Revised Code to be secured ratably with any revenue bonds theretofore or thereafter issued under said section, covenants setting forth the duties of the director and chief of the division of parks and ~~recreation~~ watercraft in relation to the acquisition, improvement, maintenance, operation, repair, and insurance of the lands or interests therein or public service facilities in connection with which such bonds are authorized, the custody, safeguarding, and application of all moneys, the insurance of moneys on hand or on deposit, and the rights and remedies of the trustee and the holders of the bonds, including therein provisions restricting the individual right of action of bondholders as is customary in trust agreements respecting bonds and debentures of corporations, and of the security given by those who contract to construct the project, and by any bank or trust company in which the proceeds of bonds or revenues shall be deposited, and such other provisions as the director deems reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of any such trust agreement may be treated as a part of the cost of maintenance, operation, and repair of the facilities for which the bonds were issued.

The director shall covenant and agree to maintain, so long as there are outstanding any such bonds payable from revenues, adequate fees, charges, and rentals for the payment of the principal and interest on such bonds and for the creation and maintenance of reserves therefor and reserves for operation, maintenance, replacement, and renewal.

Sec. 1501.14. To the extent provided in the order of the director or in the trust agreement securing the bonds, all admission fees, charges, and rentals and all other revenues derived from the lands and interests therein and public service facilities, for the acquisition, construction, enlargement, equipment, furnishing, or improvement of which bonds are issued, except such part as is necessary to pay the cost of maintaining, repairing, and operating them during any period in which such cost is not otherwise provided for, shall be pledged to the payment of the principal of and interest on such bonds. In any case in which the director deems it advisable, he has authority in the order providing for issuance of the bonds to pledge the admission fees, charges, and rentals and all other revenues derived from any or all state parks and public service facilities in any state park or parks, except such part as is necessary to pay the cost of maintaining, repairing, and operating such state parks and facilities, as additional security for the

payment of any bonds issued under the provisions of sections 1501.12 to 1501.15, inclusive, of the Revised Code.

Any order authorizing issuance of state park revenue bonds may provide for the payment of a proportionate share of the expenses of the operation of the department and the division of parks and ~~recreation~~ watercraft as a charge prior to the payment of principal of and interest on such bonds, and all other payments required to be made by such order or the trust agreement securing such bonds.

Sec. 1501.24. (A) The director of natural resources may appoint natural resources officers for purposes of custodial or patrol service on lands and waters owned, controlled, maintained, or administered by the department of natural resources under Chapters 1503., 1517., 1546., and 1547. of the Revised Code, and waters in this state. The department shall employ a natural resources officer in conformity with the law applicable to the classified service of the state.

(B)(1) On any lands or waters in this state and on highways adjacent to those lands and waters, a natural resources officer has the authority specified under division (A)(2) of section 2935.03 of the Revised Code for peace officers, including doing both of the following:

(a) Keeping the peace;

(b) Enforcing all laws and rules governing those lands and waters, including sections 1503.01 to 1503.07, sections 1503.12 to 1503.99; Chapters 1517., 1518., 1546., 1547., 1548., 2925., and 3719. of the Revised Code; and section 3767.32 of the Revised Code and any other laws prohibiting the dumping of refuse into or along waters.

(2) A natural resources officer may serve and execute any citation, summons, warrant, or other process issued with respect to any law that the officer has the authority to enforce.

(3) A natural resources officer shall exercise the authority established under divisions (B)(1) and (2) of this section on lands or waters administered by the division of wildlife only pursuant to an agreement with the chief of that division or pursuant to a request for assistance by an enforcement officer of that division in an emergency.

(4) The jurisdiction of a natural resources officer is concurrent with that of the peace officers of the county, township, or municipal corporation in which a violation occurs.

(C) The governor, upon the recommendation of the director, shall issue to each natural resources officer a commission indicating authority to make arrests as provided in this section.

(D)(1) A natural resources officer may render assistance to a state or

local law enforcement officer at the request of that officer or may render assistance to a state or local law enforcement officer in the event of an emergency.

(2) The service of a natural resources officer outside the authority established under this section or under the terms of a mutual aid compact authorized under section 1501.02 of the Revised Code is considered the performance of services within the officer's regular employment for the purposes of compensation, pension or indemnity fund rights, workers' compensation, and other rights or benefits to which the officer may be entitled as incidents of the officer's regular employment.

(3) A natural resources officer serving outside the authority established under this section or under a mutual aid compact retains personal immunity from civil liability as specified in section 9.86 of the Revised Code and is not considered an employee of a political subdivision for purposes of Chapter 2744. of the Revised Code. A political subdivision that uses a natural resources officer under this section or under the terms of a mutual aid compact authorized under section 1501.02 of the Revised Code is not subject to civil liability under Chapter 2744. of the Revised Code as the result of any action or omission of the officer acting under this section or under a mutual aid compact.

(E) As used in this section "highway" has the same meaning as in section 4511.01 of the Revised Code.

Sec. 1501.25. (A) As used in this section, "felony" has the same meaning as in section 109.511 of the Revised Code.

(B)(1) The director of natural resources shall not appoint a person as a natural resources officer under section 1501.24 of the Revised Code on a permanent or temporary basis or for a probationary term if the person previously has been convicted of or has pleaded guilty to a felony.

(2)(a) The director shall terminate the employment of a natural resources officer if the officer does either of the following:

(i) Pleads guilty to a felony;

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated plea agreement as provided in division (D) of section 2929.43 of the Revised Code in which the officer agrees to surrender the certificate awarded to the officer under section 109.77 of the Revised Code.

(b) The director shall suspend a natural resources officer from employment if that person is convicted, after trial, of a felony. If the natural resources officer files an appeal from that conviction and the conviction is upheld by the highest court to which the appeal is taken or if the officer does not file a timely appeal, the director shall terminate the employment of that

officer. If the officer files an appeal that results in the officer's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against the officer, the director shall reinstate that officer. A natural resources officer who is reinstated under division (B)(2)(b) of this section shall not receive any back pay unless that officer's conviction of the felony was reversed or dismissed on appeal because the court found insufficient evidence to convict the officer of the felony.

(3) Division (B) of this section does not apply regarding an offense that was committed prior to January 1, 1997.

(4) The director shall suspend or terminate the employment of a natural resources officer under division (B)(2) of this section in accordance with Chapter 119. of the Revised Code.

Sec. 1501.45. (A) As used in this section:

(1) "Forfeiture laws" means provisions that are established in Title XXIX of the Revised Code and that govern the forfeiture and disposition of certain property that is seized pursuant to a law enforcement investigation.

(2) "Law enforcement division" means the division of forestry, the division of natural areas and preserves, the division of wildlife; or the division of parks and recreation, ~~or the division of~~ watercraft in the department of natural resources.

(3) "Law enforcement fund" means a fund created in this section.

(B) Except as otherwise provided in this section and notwithstanding any provision of the Revised Code that is not in Title XV of the Revised Code to the contrary, the forfeiture laws apply to a law enforcement division that substantially conducts an investigation that results in the ordered forfeiture of property and also apply to the involved forfeiture of property, and the law enforcement division shall comply with those forfeiture laws. Accordingly, the portion of the forfeiture laws that authorizes certain proceeds from forfeited property to be distributed to the law enforcement agency that substantially conducted the investigation that resulted in the seizure of the subsequently forfeited property apply to the law enforcement divisions except as provided in division (C)(2)(a) of this section. If a law enforcement division is eligible to receive such proceeds, the proceeds shall be deposited into the state treasury to the credit of the applicable law enforcement fund.

(C)(1) There are hereby created in the state treasury the division of wildlife law enforcement fund, ~~the division of parks and recreation law enforcement fund,~~ and the ~~division of watercraft~~ natural resources law enforcement fund.

(2) The funds shall consist of proceeds from forfeited property that are



deposited as follows:

(a) Proceeds from forfeited property resulting from an investigation conducted by the division of forestry, the division of natural areas and preserves, or the division of parks and ~~recreation~~ watercraft shall be deposited in the ~~division of parks and recreation~~ natural resources law enforcement fund.

(b) Proceeds from forfeited property resulting from an investigation conducted by the division of wildlife shall be deposited in the division of wildlife law enforcement fund.

~~(c) Proceeds from forfeited property resulting from an investigation conducted by the division of watercraft shall be deposited in the division of watercraft law enforcement fund.~~

(3) The funds shall be used for law enforcement purposes specified in the forfeiture laws as follows:

(a) Money in the ~~division of parks and recreation~~ natural resources law enforcement fund shall be used by the division of parks and ~~recreation~~ watercraft.

(b) Money in the division of wildlife law enforcement fund shall be used by the division of wildlife.

~~(c) Money in the division of watercraft law enforcement fund shall be used by the division of watercraft.~~

(4) A law enforcement division shall not use its fund to pay the salaries of its employees or to provide for any other remuneration of personnel.

(D) If the forfeiture laws conflict with any provisions that govern forfeitures and that are established in another section of Title XV of the Revised Code, the provisions established in the other section of Title XV apply.

Sec. 1503.011. The chief of the division of forestry shall be responsible for the conservation and development of forests within this state. The chief shall be concerned with silvicultural practices, including the proper planting, growing, protecting, harvesting, and managing of trees for such purposes as watershed and soil protection, timber production and utilization, recreation, aesthetics, wildlife habitat development, and urban enhancement and for all benefits that forests provide.

The chief may do any or all of the following:

(A) Provide rural forestry assistance to nonindustrial private forest landowners, including advice in tree planting, forest improvement, harvesting, and all aspects of conservation;

(B) Provide urban forestry assistance to individuals, nonprofit organizations, and political subdivisions to manage their urban forest

resource and develop comprehensive tree care programs;

(C) Provide wood utilization, marketing, and rural forestry development assistance to forest industries, political subdivisions and agencies thereof, and state and federal agencies for the purpose of establishing and maintaining a viable, economically sound wood-based industry while expanding the forest resource of this state;

(D) Provide forest pest protection assistance to forest landowners, political subdivisions and agencies thereof, and state and federal agencies on assessing and evaluating the health and vigor of the forest resource;

(E) Provide technical assistance to landowners in developing forest windbreaks, filter strips, and other forest management practices that provide conservation benefits;

(F) Provide awareness of and education concerning the programs provided for under divisions (A) to (E) of this section;

(G) Enter into agreements with political subdivisions and agencies thereof, state and federal agencies, firefighting agencies and private fire companies, as those terms are defined in section 9.60 of the Revised Code, nonprofit organizations, and individuals to meet the needs of forestry assistance in this state and, in accordance with section 1503.01 of the Revised Code, develop and administer grant programs for any of those entities requesting assistance. The chief shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code establishing such requirements and procedures as are necessary to implement this division;

(H) Administer the state recreational vehicle fund created in section 4519.11 of the Revised Code.

As used in this section, "nonprofit organization" has the same meaning as in section 4141.01 of the Revised Code.

Sec. 1503.012. There is hereby created in the state treasury the forestry mineral royalties fund. The fund shall consist of money deposited into it under section 1509.73 of the Revised Code. Any investment proceeds earned on money in the fund shall be credited to the fund.

Money in the fund shall be used by the division of forestry to acquire land and to pay capital costs, including equipment and repairs and renovations of facilities, that are owned by the state and administered by the division. Expenditures from the fund for those purposes shall be approved by the director of natural resources.

The director of natural resources also may request the director of budget and management to transfer money from the forestry mineral royalties fund to the parks mineral royalties fund created in section ~~4541.26~~ 1546.24 of the

Revised Code. The director of budget and management shall transfer the money pursuant to the request if the director consents to the request. Money that is transferred to the parks mineral royalties fund shall be used for the purposes specified in section ~~1541.26~~ 1546.24 of the Revised Code.

Sec. 1503.03. The chief of the division of forestry shall cooperate with ~~the Ohio agricultural research and development center~~, all state operated universities, and the department of agriculture. The chief, with the approval of the director of natural resources, may purchase or acquire by gift, donations, or contributions any interest in land suitable for forestry purposes. The chief may enter into agreements with the federal government or other agencies for the acquisition, by lease, purchase, or otherwise, of such lands as in the judgment of the chief and director are desirable for state forests, building sites, or nursery lands. The chief may expend funds, not otherwise obligated, for the management, development, and utilization of such lands.

The chief, with the approval of the director, may acquire by lease, purchase, gift, or otherwise, in the name of the state, forested or other lands in the state suitable for the growth of forest trees to the amount of the appropriation for that purpose. The chief shall prepare and submit to the director maps and descriptions of such areas including and adjacent to the existing state forest lands, the lands within which, not at the time belonging to the state, are properly subject to purchase as state forest lands for reasons of protection, utilization, and administration. When such an area is approved by the director and the recreation and resources council created in section 1501.04 of the Revised Code, it shall be known as a state forest purchase area and the map and description, with the approval of the director indorsed thereon, shall be filed in duplicate with the auditor of state and the attorney general.

All lands purchased for forest purposes shall be deeded to the state, but the purchase price of such lands shall not be paid until the title thereof has been approved by the attorney general. The price of such lands shall not exceed the appropriation for such purposes.

Sec. 1503.05. (A) The chief of the division of forestry may sell timber and other forest products from the state forest and state forest nurseries whenever the chief considers such a sale desirable and, with the approval of the attorney general and the director of natural resources, may sell portions of the state forest lands when such a sale is advantageous to the state.

(B) Except as otherwise provided in this section, a timber sale agreement shall not be executed unless the person or governmental entity bidding on the sale executes and files a surety bond conditioned on

completion of the timber sale in accordance with the terms of the agreement in an amount ~~equal to twenty five per cent of the highest value cutting section~~ determined by the chief. All bonds shall be given in a form prescribed by the chief and shall run to the state as obligee.

The chief shall not approve any bond until it is personally signed and acknowledged by both principal and surety, or as to either by the attorney in fact thereof, with a certified copy of the power of attorney attached. The chief shall not approve the bond unless there is attached a certificate of the superintendent of insurance that the company is authorized to transact a fidelity and surety business in this state.

In lieu of a bond, the bidder may deposit any of the following:

- (1) Cash in an amount equal to the amount of the bond;
- (2) United States government securities having a par value equal to or greater than the amount of the bond;
- (3) Negotiable certificates of deposit or irrevocable letters of credit issued by any bank organized or transacting business in this state having a par value equal to or greater than the amount of the bond.

The cash or securities shall be deposited on the same terms as bonds. If one or more certificates of deposit are deposited in lieu of a bond, the chief shall require the bank that issued any of the certificates to pledge securities of the aggregate market value equal to the amount of the certificate or certificates that is in excess of the amount insured by the federal deposit insurance corporation. The securities to be pledged shall be those designated as eligible under section 135.18 of the Revised Code. The securities shall be security for the repayment of the certificate or certificates of deposit.

Immediately upon a deposit of cash, securities, certificates of deposit, or letters of credit, the chief shall deliver them to the treasurer of state, who shall hold them in trust for the purposes for which they have been deposited. The treasurer of state is responsible for the safekeeping of the deposits. A bidder making a deposit of cash, securities, certificates of deposit, or letters of credit may withdraw and receive from the treasurer of state, on the written order of the chief, all or any portion of the cash, securities, certificates of deposit, or letters of credit upon depositing with the treasurer of state cash, other United States government securities, or other negotiable certificates of deposit or irrevocable letters of credit issued by any bank organized or transacting business in this state, equal in par value to the par value of the cash, securities, certificates of deposit, or letters of credit withdrawn.

A bidder may demand and receive from the treasurer of state all interest or other income from any such securities or certificates as it becomes due. If

securities so deposited with and in the possession of the treasurer of state mature or are called for payment by their issuer, the treasurer of state, at the request of the bidder who deposited them, shall convert the proceeds of the redemption or payment of the securities into other United States government securities, negotiable certificates of deposit, or cash as the bidder designates.

When the chief finds that a person or governmental agency has failed to comply with the conditions of the person's or governmental agency's bond, the chief shall make a finding of that fact and declare the bond, cash, securities, certificates, or letters of credit forfeited. The chief thereupon shall certify the total forfeiture to the attorney general, who shall proceed to collect the amount of the bond, cash, securities, certificates, or letters of credit.

In lieu of total forfeiture, the surety, at its option, may cause the timber sale to be completed or pay to the treasurer of state the cost thereof.

All moneys collected as a result of forfeitures of bonds, cash, securities, certificates, and letters of credit under this section shall be credited to the state forest fund created in this section.

(C) The chief may grant easements and leases on portions of the state forest lands and state forest nurseries under terms that are advantageous to the state, and the chief may grant mineral rights on a royalty basis on those lands and nurseries, with the approval of the attorney general and the director.

(D) All moneys received from the sale of state forest lands, or in payment for easements or leases on or as rents from those lands or from state forest nurseries, shall be paid into the state treasury to the credit of the state forest fund, which is hereby created. In addition, all moneys received from federal grants, payments, and reimbursements, from the sale of reforestation tree stock, from the sale of forest products, other than standing timber, and from the sale of minerals taken from the state forest lands and state forest nurseries, together with royalties from mineral rights, shall be paid into the state treasury to the credit of the state forest fund. Any other revenues derived from the operation of the state forests and related facilities or equipment also shall be paid into the state treasury to the credit of the state forest fund, as shall contributions received for the issuance of Smokey Bear license plates under section 4503.574 of the Revised Code and any other moneys required by law to be deposited in the fund.

The state forest fund shall not be expended for any purpose other than the administration, operation, maintenance, development, or utilization of the state forests, forest nurseries, and forest programs, for facilities or equipment incident to them, or for the further purchase of lands for state

forest or forest nursery purposes and, in the case of contributions received pursuant to section 4503.574 of the Revised Code, for fire prevention purposes.

All moneys received from the sale of standing timber taken from state forest lands and state forest nurseries shall be deposited into the state treasury to the credit of the forestry holding account redistribution fund, which is hereby created. The moneys shall remain in the fund until they are redistributed in accordance with this division.

The redistribution shall occur at least once each year. To begin the redistribution, the chief first shall determine the amount of all standing timber sold from state forest lands and state forest nurseries, together with the amount of the total sale proceeds, in each county, in each township within the county, and in each school district within the county. The chief next shall determine the amount of the direct costs that the division of forestry incurred in association with the sale of that standing timber. The amount of the direct costs shall be subtracted from the amount of the total sale proceeds and shall be transferred from the forestry holding account redistribution fund to the state forest fund.

The remaining amount of the total sale proceeds equals the net value of the standing timber that was sold. The chief shall determine the net value of standing timber sold from state forest lands and state forest nurseries in each county, in each township within the county, and in each school district within the county and shall send to each county treasurer a copy of the determination at the time that moneys are paid to the county treasurer under this division.

Thirty-five per cent of the net value of standing timber sold from state forest lands and state forest nurseries located in a county shall be transferred from the forestry holding account redistribution fund to the state forest fund. The remaining sixty-five per cent of the net value shall be transferred from the forestry holding account redistribution fund and paid to the county treasurer for the use of the general fund of that county.

The county auditor shall do all of the following:

(1) Retain for the use of the general fund of the county one-fourth of the amount received by the county under division (D) of this section;

(2) Pay into the general fund of any township located within the county and containing such lands and nurseries one-fourth of the amount received by the county from standing timber sold from lands and nurseries located in the township;

(3) Request the board of education of any school district located within the county and containing such lands and nurseries to identify which fund or

funds of the district should receive the moneys available to the school district under division (D)(3) of this section. After receiving notice from the board, the county auditor shall pay into the fund or funds so identified one-half of the amount received by the county from standing timber sold from lands and nurseries located in the school district, distributed proportionately as identified by the board.

The division of forestry shall not supply logs, lumber, or other forest products or minerals, taken from the state forest lands or state forest nurseries, to any other agency or subdivision of the state unless payment is made therefor in the amount of the actual prevailing value thereof. This section is applicable to the moneys so received.

(E) The chief may enter into a personal service contract for consulting services to assist the chief with the sale of timber or other forest products and related inventory. Compensation for consulting services shall be paid from the proceeds of the sale of timber or other forest products and related inventory that are the subject of the personal service contract.

Sec. 1503.08. The chief of the division of forestry, with the approval of the director of natural resources, shall establish fire protection areas for the state. When establishing fire protection areas, the chief shall consider all of the following:

(A) The amount of forest cover;

(B) The actual and potential fire occurrence;

(C) The threat to forest resources;

(D) The population of the areas;

(E) Any other pertinent forest resource information.

Sec. 1503.09. The chief of the division of forestry may appoint forest-fire wardens and forest-fire investigators, whose jurisdiction shall extend over such territory as the chief determines, subject to the approval of the director of natural resources fire protection areas established under section 1503.08 of the Revised Code. Forest-fire investigators shall conduct investigations and gather evidence for purposes of the enforcement of this chapter and sections 2909.02, 2909.03, 2909.06, and 3767.32 of the Revised Code with respect to forest fires in fire protection areas. Any such forest-fire warden or forest-fire investigator shall hold office for the term of one year or until his the warden's or investigator's successor is appointed, but he any such warden or investigator may at any time be summarily removed by the chief.

The chief may designate a forest-fire warden as a forest-fire investigator. The chief shall establish a policy for the required training of forest-fire investigators, which shall include successful completion of basic

wildland fire suppression training and training as a peace officer. Division (D) of section 1501.24 and section 1501.25 of the Revised Code apply to a forest-fire investigator in the same manner as those provisions of law apply to a natural resources officer. Forest-fire investigators shall have jurisdiction, with permission from the chief, to enter public and private lands.

Sec. 1503.10. The chief of the division of forestry or the chief's designee shall supervise all forest-fire wardens and forest-fire investigators, shall instruct them in their duties, shall enforce all laws of this state for the prevention and suppression of forest fires, and shall ~~cause those who violate~~ direct investigations of alleged violations of such laws ~~to be prosecuted~~ within fire protection areas established under section 1503.08 of the Revised Code.

Sec. 1503.11. Forest-fire wardens shall prevent and extinguish forest fires in the territory over which they have jurisdiction and shall have control and direction of all persons and apparatus while engaged in extinguishing forest fires.

In case of fire threatening any forest or woodland, the wardens having authority in that locality shall attend immediately and use all necessary means to confine and extinguish the fire. ~~The Forest-fire~~ wardens or forest-fire investigators may cut trees or other vegetation, destroy fences, plow land, or set backfires to check any fire.

Sec. 1503.14. The chief of the division of forestry may establish and put into effect a system for aerial or ground detection and observation of forest fires which shall cover the regions determined by the chief to be subject to forest fires, purchase the necessary equipment and material, and hire the necessary labor for the installation and maintenance of the system.

The chief may enter into agreements or contracts with firefighting agencies and private fire companies for the purpose of providing mutual aid and assistance in the protection of forests from forest fires in fire protection areas established under section 1503.08 of the Revised Code. The agreements or contracts may provide for at least technical assistance, assistance in training personnel, and fire suppression assistance and such other forms of aid as may be available and appropriate.

The chief, with the approval of the director of natural resources, may transfer title to or ownership of vehicles, equipment, materials, and supplies that are determined to be in excess of the needs of the department of natural resources and the division to a firefighting agency or private fire company for the purpose of accomplishing fire suppression in fire protection areas.

As used in this section, "firefighting agency" and "private fire company"



have the same meanings as in section 9.60 of the Revised Code.

Sec. 1503.141. There is hereby created in the state treasury the wildfire suppression fund. The fund shall consist of any federal moneys received for the purposes of this section and donations, gifts, bequests, and other moneys received for those purposes. In addition, the chief of the division of forestry annually may request that the director of budget and management transfer, and, if so requested, the director shall transfer, not more than one hundred thousand dollars to the wildfire suppression fund from the state forest fund created in section 1503.05 of the Revised Code. The amount transferred shall consist only of money deposited into the state forest fund from the sale of standing timber taken from state forest lands as set forth in that section.

The chief ~~shall~~ may use moneys in the wildfire suppression fund to reimburse firefighting agencies and private fire companies for their costs incurred in the suppression of wildfires in counties within fire protection areas established under section 1503.08 of the Revised Code where there is a state forest or national forest, or portion thereof. The chief, with the approval of the director of natural resources, may provide such reimbursement in additional counties. The chief shall provide such reimbursement pursuant to agreements and contracts entered into under section 1503.14 of the Revised Code and in accordance with the following schedule:

(A) For wildfire suppression on private land, an initial seventy-dollar payment to the firefighting agency or private fire company;

(B) For wildfire suppression on land under the administration or care of the department of natural resources or on land that is part of any national forest administered by the United States department of agriculture forest service, an initial one-hundred-dollar payment to the firefighting agency or private fire company;

(C) For any wildfire suppression on land specified in division (A) or (B) of this section lasting more than two hours, an additional payment of thirty-five dollars per hour.

If at any time moneys in the fund exceed two hundred thousand dollars, the chief shall ~~disburse~~ transfer the moneys that exceed that amount to the ~~firefighting agencies and private fire companies in accordance with rules that the chief shall adopt in accordance with Chapter 119. of the Revised Code. The rules shall establish requirements and procedures that are similar in purpose and operation to the federal rural community fire protection program established under the "Cooperative Forestry Assistance Act of 1978," 92 Stat. 365, 16 U.S.C.A. 2101, as amended~~ state forest fund.

As used in this section, "firefighting agency" and "private fire company"

have the same meanings as in section 9.60 of the Revised Code.

Sec. 1503.15. A forest-fire warden or forest-fire investigator is not personally liable for any act required or authorized under sections 1503.07 to 1503.27 of the Revised Code while acting within the scope of ~~his~~ official duties as warden or investigator.

Sec. 1503.18. (A) No person shall kindle a fire upon public land without the written permission of the forest-fire warden having jurisdiction or on land of another without the written permission of the owner or ~~his~~ the owner's agent.

(B) No person shall kindle or authorize another to kindle a fire in or near any woodland, brushland, or land containing tree growth or in any place from which the fire is likely to escape unless all leaves, grass, wood, and inflammable material surrounding the place where the fire is kindled have first been removed to a safe distance and all other reasonable precautions have been taken to prevent its escape from control. No fire shall be left until extinguished or safely covered.

(C) Excepting fires kindled in a plowed field, garden, or public highway at a distance of not less than two hundred feet from any woodland, brushland, or field containing dry grass or other inflammable material, no person shall kindle or authorize another to kindle a fire in the open air, outside the limits of any municipal corporation or land controlled by any railroad company, for the purpose of burning wood, brush, weeds, grass, or rubbish of any kind between the hours of six a.m. and six p.m. during the months of March, April, May, October, and November in any year. The chief of the division of forestry may adopt rules in accordance with Chapter 119. of the Revised Code to expand the times and places for kindling fires if the chief gives notice by publishing one notice in a newspaper of general circulation in the area affected or giving written authorization to the ~~for any affected person persons.~~

(D) The times and places for kindling fires established under division (C) of this section may be restricted or eliminated by executive order of the governor if environmental conditions so warrant.

(E) Fires kindled by improperly disposing of a lighted match, cigar, or other burning or glowing substance are kindled fires within the meaning of this section.

Sec. 1504.01. There is hereby created in the department of natural resources the office of real estate and land management. The director of natural resources shall appoint a chief to administer the office. The chief shall act as the director's designee and carry out the duties of the chief on behalf of the director. Subject to the approval of the director, the chief shall

employ assistants and other employees as necessary to execute the duties of the office as prescribed by this chapter.

Sec. 1504.02. (A) The office of real estate and land management shall do all of the following:

(1) Except as otherwise provided in the Revised Code, coordinate and conduct all real estate functions for the department of natural resources, including acquiring land by purchase, lease, gift, devise, bequest, appropriation, or otherwise; administering grants through sales, leases, exchanges, easements, and licenses; performing inventories of land; and performing other related general management duties;

(2) Cooperate with federal agencies and political subdivisions in administering federal recreation moneys under the "Land and Water Conservation Fund Act of 1965," 78 Stat. 897, 16 U.S.C. 4601-8, and prepare and distribute the statewide comprehensive outdoor recreation plan;

(3) Prepare special studies and execute any other duties, functions, and responsibilities requested by the director of natural resources;

(4) Administer the real estate services associated with canal lands on behalf of the director under Chapter 1520. of the Revised Code.

(B) The office may do any of the following:

(1) Coordinate environmental matters concerning the department and the state as are necessary to comply with the "National Environmental Policy Act of 1969," 83 Stat. 852, 42 U.S.C. 4321, the "Intergovernmental Cooperation Act of 1968," 82 Stat. 1098, 31 U.S.C. 6506, and the "Federal Water Pollution Control Act," 91 Stat. 1566 (1977), 33 U.S.C. 1251, and regulations adopted under those acts;

(2) Survey land;

(3) As considered necessary by the director, administer any state or federally funded grant program that is related to natural resources or recreation;

(4) Coordinate department projects, programs, policies, procedures, and activities with the United States army corps of engineers and other federal agencies;

(5) Coordinate department activities associated with the completion of drainage ditch improvements in accordance with Chapters 6131. and 6133. of the Revised Code;

(6) Prepare and distribute the statewide comprehensive outdoor recreation plan.

Sec. 1504.03. The chief of the office of real estate and land management or an employee of the office may enter upon lands to make surveys and inspections when necessary for the purposes of this chapter. The chief shall

provide reasonable notice of any proposed entry to the owner or person in possession of the land to be surveyed or inspected not less than forty-eight hours and not more than thirty days prior to the date of entry. An entry conducted under this section does not constitute trespass.

Sec. 1506.35. (A) The director of natural resources may suspend or revoke, in accordance with Chapter 119. of the Revised Code, a permit issued under section 1506.32 of the Revised Code if the permit holder has done either of the following:

(1) Failed to comply with sections 1506.30 to 1506.36 of the Revised Code, any rules adopted under those sections, or any provision or condition of the holder's permit;

(2) Damaged abandoned property other than in accordance with the provisions or conditions of the permit.

(B) Any motor vehicle, as defined in section 4501.01 of the Revised Code, watercraft, as defined in section ~~1547.01~~ 1546.01 of the Revised Code, mechanical or other assistance, scuba gear, sonar equipment, or other equipment used by any person in the course of committing a third or subsequent violation of division (K) of section 1506.32 of the Revised Code shall be considered contraband for the purposes of Chapter 2981. of the Revised Code, except that proceeds from the sale of such contraband shall be disposed of in the following order:

(1) To the payment of the costs incurred in the forfeiture proceedings under Chapter 2981. of the Revised Code;

(2) To the payment of the balance due on any security interest preserved under division (F) of section 2981.04 of the Revised Code;

(3) To the payment of any costs incurred by the seizing agency under Chapter 2981. of the Revised Code in connection with the storage, maintenance, security, and forfeiture of the contraband;

(4) Fifty per cent of the remaining money to the credit of the Lake Erie submerged lands preserves fund created in division (C) of this section, and fifty per cent of the remaining money to the Ohio history connection for deposit into the fund created pursuant to division (C) of section 149.56 of the Revised Code.

(C) There is hereby created in the state treasury the Lake Erie submerged lands preserves fund. The fund shall be composed of moneys credited to it under division (B)(4) of this section and division (D)(2) of section 1506.33 of the Revised Code, all appropriations, contributions, and gifts made to it, and any federal grants received by the department of natural resources for the purposes of sections 1506.30 to 1506.36 of the Revised Code. The director shall use the moneys in the Lake Erie submerged lands

preserves fund solely to implement and administer sections 1506.30 to 1506.36 of the Revised Code.

(D) The director may request the attorney general to, and the attorney general shall, bring a civil action in any court of competent jurisdiction for any of the following purposes:

(1) To enforce compliance with or restrain violation of sections 1506.30 to 1506.36 of the Revised Code, any rules adopted under those sections, or any permit issued under section 1506.32 of the Revised Code;

(2) To enjoin the further removal of abandoned property or archaeological material from Lake Erie;

(3) To order the restoration of an area affected by a violation of sections 1506.30 to 1506.36 of the Revised Code or of a permit issued under section 1506.32 of the Revised Code to its prior condition.

Any action under this division is a civil action governed by the Rules of Civil Procedure.

(E) A peace officer of a county, township, or municipal corporation, ~~and a preserve officer, wildlife officer, park officer, or watercraft officer~~ designated under section ~~1517.10, 1531.13, 1541.10, or 1547.521~~ of the Revised Code, ~~as applicable,~~ and a natural resources officer appointed under section 1501.24 of the Revised Code may enforce compliance with sections 1506.30 to 1506.36 of the Revised Code, any rules adopted under those sections, and any permit issued under section 1506.32 of the Revised Code and may make arrests for violation of those laws, rules, and permits.

Sec. 1509.73. (A)(1) Beginning on ~~the effective date of this section~~ September 30, 2011, and ending on the effective date of the rules adopted under section 1509.74 of the Revised Code, a state agency, in consultation with the oil and gas leasing commission, may lease a formation within a parcel of land that is owned or controlled by the state agency for the exploration for and development and production of oil or natural gas. The state agency shall establish bid fees, signing fees, rentals, and at least a one-eighth landowner royalty. On and after the effective date of the rules adopted under section 1509.74 of the Revised Code, a formation within a parcel of land that is owned or controlled by a state agency may be leased for the exploration for and development and production of oil or natural gas only in accordance with divisions (A)(2) to (H) of this section and those rules.

(2) Not earlier than two hundred seventy days after ~~the effective date of this section~~ September 30, 2011, a person that is an owner and that is interested in leasing a formation within a parcel of land that is owned or controlled by a state agency for the exploration for and the development and

production of oil or natural gas may submit to the oil and gas leasing commission a nomination that identifies the parcel of land. A person submitting a nomination shall submit it in the manner and form established in rules adopted under section 1509.74 of the Revised Code and shall include with the nomination both of the following:

- (a) The information required by those rules;
- (b) The nomination fee established in those rules.

(B)(1) Not less than thirty days, but not more than one hundred twenty days following the receipt of a nomination of a parcel of land, the commission shall conduct a meeting for the purpose of determining whether to approve or disapprove the nomination for the purpose of leasing a formation within the parcel of land that is identified in the nomination. The commission also shall review the nomination of the parcel of land and determine if the parcel of land has been classified under section 1509.72 of the Revised Code. If the parcel of land that is the subject of the nomination has not been classified, the commission immediately shall send a copy of the nomination to the state agency that owns or controls the parcel that is the subject of the nomination. Not later than fifteen days after receipt of a copy of the nomination, the state agency shall classify the parcel of land as a class 1, class 2, class 3, or class 4 property and submit the classification to the commission. On receipt of the state agency's classification of the parcel of land, the commission shall provide the department of natural resources the information necessary for the department to comply with divisions (C) and (D) of section 1509.72 of the Revised Code.

After a parcel of land that is the subject of a nomination has been classified under section 1509.72 of the Revised Code or division (B)(1) of this section, as applicable, the commission shall approve or disapprove the nomination. In making its decision to approve or disapprove the nomination of the parcel of land, the commission shall consider all of the following:

- (a) The economic benefits, including the potential income from an oil or natural gas operation, that would result if the lease of a formation that is the subject of the nomination were approved;
- (b) Whether the proposed oil or gas operation is compatible with the current uses of the parcel of land that is the subject of the nomination;
- (c) The environmental impact that would result if the lease of a formation that is the subject of the nomination were approved;
- (d) Any potential adverse geological impact that would result if the lease of a formation that is the subject of the nomination were approved;
- (e) Any potential impact to visitors or users of a parcel of land that is the subject of the nomination;

(f) Any potential impact to the operations or equipment of a state agency that is a state university or college if the lease of a formation within a parcel of land owned or controlled by the university or college that is the subject of the nomination were executed;

(g) Any objections to the nomination submitted to the commission by the state agency that owns or controls the land on which the proposed oil or natural gas operation would take place;

(h) Any comments or objections to the nomination submitted to the commission by residents of this state or other users of the parcel of land that is the subject of the nomination;

(i) Any other factors that the commission establishes in rules adopted under section 1509.74 of the Revised Code.

(2) The commission shall disapprove a nomination of a parcel of land that is a class 3 property. The commission shall send notice of the disapproval by certified mail to the person that submitted the nomination.

(3) Prior to making its decision to approve or disapprove a nomination, the commission shall notify the state agency that owns or controls the land on which the oil or gas operation would take place.

(4) The commission shall approve or disapprove a nomination not later than two calendar quarters following the receipt of the nomination. Notice of the decision of the commission shall be sent by certified mail to the person that submitted the nomination.

(5) If the commission approves a nomination, the commission shall notify the state agency that owns or controls the parcel of land that is the subject of a nomination of the commission's approval of the nomination. The notification shall request the state agency to submit to the commission special terms and conditions that will apply to the lease of a formation within the parcel of land because of specific conditions related to the parcel of land. The state agency shall submit the special terms and conditions not later than sixty days after receipt of a notice from the commission.

(6) If the commission approves a nomination for a parcel of land that is a class 1 property, the commission shall offer for lease each formation that is within the parcel of land. If the commission approves a nomination for a parcel of land that is a class 2 or class 4 property, the commission shall not offer for lease any formation that is within the parcel of land unless the state agency that owns or controls the parcel of land notifies the commission that a formation or formations that are within the parcel of land may be offered for lease.

(C) Each calendar quarter, the commission shall proceed to advertise for bids for a lease for a formation within a parcel of land that was the subject

of a nomination approved during the previous calendar quarter that is a class 1 property or that is a class 2 or class 4 property for which the commission has received notice from the state agency that owns or controls the parcel of land under division (B)(6) of this section that a formation or formations that are within the parcel of land may be offered for lease. The advertisement shall be provided to the department of natural resources, and the department shall publish the advertisement on its web site for a period of time established by the commission. The advertisement shall include all of the following:

(1) The procedure for the submission of a bid to enter into a lease for a formation within a parcel of land;

(2) A statement that a standard lease form that is consistent with the practices of the oil and natural gas industries will be used for the lease of a formation within the parcel of land;

(3) A copy of the standard lease form that will be used for the lease of a formation within the parcel of land;

(4) Special terms and conditions, if applicable, that apply to the lease because of specific conditions related to the parcel of land;

(5) The amount of the bid fee that is required to be submitted with a bid;

(6) Any other information that the commission considers pertinent to the advertisement for bids.

(D) A person submitting a bid to enter into a lease under this section shall pay a bid fee established in rules adopted under section 1509.74 of the Revised Code.

(E) In order to encourage the submission of bids and the responsible and reasonable development of the state's natural resources, the information that is contained in a bid submitted to the commission under this section shall be confidential and shall not be disclosed before a person is selected under division (F) of this section unless the commission determines otherwise.

(F) The commission shall establish a deadline for the submission of bids for each lease regarding a particular parcel of land and shall notify the department of the deadline. The department shall post the deadline for the submission of bids for each lease on the department's web site. A person shall submit a bid in accordance with the procedures and requirements established by the commission in rules adopted under section 1509.74 of the Revised Code.

The commission shall select the person who submits the highest and best bid for each formation within that parcel of land, taking into account the financial responsibility of the prospective lessee and the ability of the prospective lessee to perform its obligations under the lease. After the



commission selects a person, the commission shall notify the applicable state agency and send the person's bid to the agency. The state agency shall enter into a lease with the person selected by the commission.

(G)(1) Except as otherwise provided in division (G)(2) of this section, all money received by a state agency from signing fees, rentals, and royalty payments for leases entered into under this section shall be paid by the state agency into the state treasury to the credit of the state land royalty fund created in section 131.50 of the Revised Code.

(2) Money received by a state agency from signing fees, rentals, and royalty payments for leases entered into under this section on land owned or controlled by the division of forestry, wildlife, or parks and ~~recreation~~ watercraft in the department of natural resources shall be deposited into one of the following funds, as applicable:

(a) The forestry mineral royalties fund created in section 1503.012 of the Revised Code if the lease pertains to land owned or controlled by the division of forestry;

(b) The wildlife habitat fund created in section 1531.33 of the Revised Code if the lease pertains to land owned or controlled by the division of wildlife;

(c) The parks mineral royalties fund created in section ~~1541.26~~ 1546.24 of the Revised Code if the lease pertains to land owned or controlled by the division of parks and ~~recreation~~ watercraft.

(H) All money received from nomination fees and bid fees shall be paid into the state treasury to the credit of the oil and gas leasing commission administration fund created in section 1509.75 of the Revised Code.

(I) Notwithstanding any other provision of this section to the contrary, a nature preserve as defined in section 1517.01 of the Revised Code that is owned or controlled by a state agency shall not be nominated or leased under this section for the purpose of exploring for and developing and producing oil and natural gas resources.

Sec. 1509.78. Notwithstanding any other provision of the Revised Code, not less than thirty per cent of the proceeds from a lease executed on and after ~~the effective date of this section~~ September 30, 2011, for the exploration and production of oil or gas within or under a state park established under Chapter ~~1541~~. 1546. of the Revised Code shall be credited to the applicable fund created in the state treasury that supports the state park. The department of natural resources shall use the money credited to the applicable fund from a lease for expenses associated with the state park within or under which the oil or gas exploration and production occurred. Money credited shall be used for capital improvements.

Sec. 1514.10. No person shall:

(A)(1) Engage in surface mining without a permit;

(2) Engage in in-stream mining or conduct an in-stream mining operation without an in-stream mining permit issued by the chief of the division of mineral resources management. A person who, on March 15, 2002, holds a valid permit to conduct in-stream mining that is issued under section 10 of the "Rivers and Harbors Appropriation Act of 1899," 30 Stat. 1151, 33 U.S.C. 403, as amended, shall not be required to obtain an in-stream mining permit from the chief under this chapter until the existing permit expires.

(B) Exceed the limits of a surface or in-stream mining permit or amendment to a permit by mining land contiguous to an area of land affected under a permit or amendment, which contiguous land is not under a permit or amendment;

(C) Purposely misrepresent or omit any material fact in an application for a surface or in-stream mining permit or amendment, an annual or final report, or any hearing or investigation conducted by the chief or the reclamation commission;

(D) Fail to perform any measure set forth in the approved plan of mining and reclamation that is necessary to prevent damage to adjoining property or to achieve a performance standard required in division (A)(10) of section 1514.02 of the Revised Code, or violate any other requirement of this chapter, a rule adopted thereunder, or an order of the chief;

(E) Conduct surface excavations of minerals within any of the following:

(1) One hundred twenty feet horizontal distance outward from the highwater mark on each bank of an area designated as a wild, scenic, or recreational river area under sections 1547.81 to ~~1547.87~~ 1547.86 of the Revised Code or of a portion of a river designated as a component of the national wild and scenic river system under the "Wild and Scenic Rivers Act," 82 Stat. 906 (1968), 16 U.S.C. 1274, as amended;

(2) Seventy-five feet horizontal distance outward from the highwater mark on each bank of a watercourse that drains a surface area of more than one hundred square miles;

(3) Fifty feet horizontal distance outward from the highwater mark on each bank of a watercourse that drains a surface area of more than twenty-five square miles, but fewer than one hundred square miles unless a variance is obtained under rules adopted by the chief.

(F) Conduct any surface mining activity within any of the following:

(1) Seventy-five feet horizontal distance outward from the highwater

mark on each bank of an area designated as a wild, scenic, or recreational river area under sections 1547.81 to 1547.87 of the Revised Code or of a portion of a river designated as a component of the national wild and scenic river system under the "Wild and Scenic Rivers Act," 82 Stat. 906 (1968), 16 U.S.C. 1274, as amended;

(2) Seventy-five feet horizontal distance outward from the highwater mark on each bank of a watercourse that drains a surface area of more than one hundred square miles;

(3) Fifty feet horizontal distance outward from the highwater mark on each bank of a watercourse that drains a surface area of more than twenty-five square miles, but fewer than one hundred square miles unless a variance is obtained under rules adopted by the chief.

A person who has been issued a surface mining permit prior to March 15, 2002 may continue to operate under that permit and shall not be subject to the prohibitions established in divisions (E) and (F) of this section until the permit is renewed.

The number of square miles of surface area that a watercourse drains shall be determined by consulting the "gazetteer of Ohio streams," which is a portion of the Ohio water plan inventory published in 1960 by the division of water in the department of natural resources, or its successor, if any.

(G) Engage in any part of a process that is followed in the production of minerals from the bottom of the channel of a watercourse in any of the following circumstances or areas:

(1) In an area designated as a wild, scenic, or recreational river area under sections 1547.81 to ~~1547.87~~ 1547.86 of the Revised Code, in a portion of a river designated as a component of the national wild and scenic river system under the "Wild and Scenic Rivers Act," 82 Stat. 906 (1968), 16 U.S.C. 1274, as amended, or within one-half mile upstream of any portion of such an area or component;

(2) During periods other than periods of low flow, as determined by rules adopted under section 1514.08 of the Revised Code;

(3) During critical fish or mussel spawning seasons as determined by the chief of the division of wildlife under Chapter 1531. of the Revised Code and rules adopted under it;

(4) In an area known to possess critical spawning habitat for a species of fish or mussel that is on the federal endangered species list established in accordance with the "Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531-1543, as amended, or the state endangered species list established in rules adopted under section 1531.25 of the Revised Code.

Division (G) of this section does not apply to the activities described in

divisions (M)(1) and (2) of section 1514.01 of the Revised Code.

Sec. 1519.03. The director of natural resources, through the chief of the division of parks and ~~recreation~~ watercraft, shall prepare and maintain a current inventory of trails, abandoned or unmaintained roads, streets, and highways, abandoned railroad rights-of-way, utility easements, canals, and other scenic or historic corridors or rights-of-way that are suitable for recreational use. The director shall prepare and publish a comprehensive plan for development of a statewide trails system to serve present and future trail recreation needs of the state. Any state department, agency, political subdivision, or planning commission shall furnish available maps, descriptions, and other pertinent information to the director or provide access to the director's representatives for inspection and duplication, upon request by the director, for trail inventory and planning purposes.

Sec. 1519.04. No person shall violate any rule adopted by the director of natural resources under this chapter.

Every sheriff, deputy sheriff, marshal, deputy marshal, member of the organized police department of any municipal corporation, police constable of any township, wildlife officer, ~~park officer, forest officer, preserve~~ natural resources officer, conservancy district police officer, and other law enforcement officer, within the area of ~~his~~ the law enforcement officer's authority, may enforce this chapter and rules adopted under it.

Sec. 1520.02. (A) The director of natural resources has exclusive authority to administer, manage, and establish policies governing canal lands.

(B)(1) The director may sell, lease, exchange, give, or grant all or part of the state's interest in any canal lands in accordance with section 1501.01 of the Revised Code. The director may stipulate that an appraisal or survey need not be conducted for, and may establish any terms or conditions that the director determines appropriate for, any such conveyance.

Prior to proposing the conveyance of any canal lands, the director shall consider the local government needs and economic development potential with respect to the canal lands and the recreational, ecological, and historical value of the canal lands. In addition, the conveyance of canal lands shall be conducted in accordance with the director's policies governing the protection and conservation of canal lands established under this section.

(2) With regard to canal lands, the chief of the ~~division office of parks~~ real estate and recreation land management, with the approval of the director, may sell, lease, or transfer minerals or mineral rights when the chief, with the approval of the director, determines that the sale, lease, or transfer is in the best interest of the state. Consideration for minerals and

mineral rights shall be by rental or on a royalty basis as prescribed by the chief, with the approval of the director, and payable as prescribed by contract. Moneys collected under division (B)(2) of this section shall be paid into the state treasury to the credit of the canal lands fund created in section 1520.05 of the Revised Code.

(C) The director may transfer to the Ohio history connection any equipment, maps, and records used on or related to canal lands that are of historical interest and that are not needed by the director to administer this chapter.

(D) If the director determines that any canal lands are a necessary part of a county's drainage or ditch system and are not needed for any purpose of the department of natural resources, the director may sell, grant, or otherwise convey those canal lands to that county in accordance with division (B) of this section. The board of county commissioners shall accept the transfer of canal lands.

(E) Notwithstanding any other section of the Revised Code, the county auditor shall transfer any canal lands conveyed under this section, and the county recorder shall record the deed for those lands in accordance with section 317.12 of the Revised Code.

Sec. 1520.03. (A) The director of natural resources may appropriate real property in accordance with Chapter 163. of the Revised Code for the purpose of administering this chapter.

(B)(1) The director shall operate and maintain all canals and canal reservoirs owned by the state except those canals that are operated by the Ohio history connection on July 1, 1989.

(2) On behalf of the director, the division of parks and ~~recreation~~ watercraft shall have the care and control of all canals and canal reservoirs owned by the state, the water in them, and canal lands and shall protect, operate, and maintain them and keep them in repair. The chief of the division of ~~parks and recreation~~ may remove obstructions from or on them and shall make any alterations or changes in or to them and construct any feeders, dikes, reservoirs, dams, locks, or other works, devices, or improvements in or on them that are necessary in the discharge of the chief's duties.

In accordance with Chapter 119. of the Revised Code, the chief may adopt, amend, and rescind rules that are necessary for the administration of this division.

(C) The director may sell or lease water from any canal or canal reservoir that the director operates and maintains only to the extent that the water is in excess of the quantity that is required for navigation, recreation,

and wildlife purposes. With the approval of the director, the chief may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code necessary to administer this division.

The withdrawal of water from any canal or canal reservoir for domestic use is exempt from this division. However, the director may require water conservation measures for water that is withdrawn from any canal or canal reservoir for domestic use during drought conditions or other emergencies declared by the governor.

(D) No person shall take or divert water from any canal or canal reservoir operated and maintained by the director except in accordance with division (C) of this section.

(E) At the request of the director, the attorney general may commence a civil action for civil penalties and injunctions, in a court of common pleas, against any person who has violated or is violating division (D) of this section. The court of common pleas in which an action for injunctive relief is filed has jurisdiction to and shall grant preliminary and permanent injunctive relief upon a showing that the person against whom the action is brought has violated or is violating that division.

Upon a finding of a violation, the court shall assess a civil penalty of not more than one thousand dollars for each day of each violation if the violator is an individual who took or diverted the water in question for residential or agricultural use. The court shall assess a civil penalty of not more than five thousand dollars for each day of each violation if the violator is any other person who took or diverted the water in question for industrial or commercial use excluding agricultural use. Moneys from civil penalties assessed under this division shall be paid into the state treasury to the credit of the canal lands fund created in section 1520.05 of the Revised Code.

Any action under this division is a civil action, governed by the rules of civil procedure and other rules of practice and procedure applicable to civil actions.

(F) As used in this section, "person" means any agency of this state, any political subdivision of this state or of the United States, or any legal entity defined as a person under section 1.59 of the Revised Code.

Sec. 1533.89. Any sheriff, deputy sheriff, marshal, deputy marshal, municipal police officer, township constable, ~~park, preserve, or forest~~ natural resources officer, conservancy district police officer, or other law enforcement officer, within the limits of the officer's jurisdiction, may enforce sections 1533.86 to 1533.90 of the Revised Code and rules adopted pursuant to section 1533.88 of the Revised Code, and any wildlife officer may enforce those sections and rules throughout the state.

Sec. 1546.01. As used in this chapter and Chapter 1547. of the Revised Code:

"Canoe" means a paddlecraft that is normally an open, narrow vessel of shallow draft, typically pointed at both ends and propelled by its occupants through the use of paddles while kneeling or sitting on a raised seat, including a flat-backed canoe and a racing canoe.

"Coast guard approved" means bearing an approval number assigned by the United States coast guard.

"Conditional approval" means a personal flotation device approval that has one or more conditions with which the user must comply in order for the device to be considered appropriate for meeting the requirements for personal flotation devices for the vessel on which it is being used.

"Diver's flag" means a red flag not less than one foot square having a diagonal white stripe extending from the masthead to the opposite lower corner that when displayed indicates that divers are in the water.

"Drug of abuse" has the same meaning as in section 4506.01 of the Revised Code.

"Electronic" includes electrical, digital, magnetic, optical, electromagnetic, or any other form of technology that entails capabilities similar to these technologies.

"Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

"Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record.

"Idle speed" means the slowest possible speed needed to maintain steerage or maneuverability.

"Impoundment" means the reservoir created by a dam or other artificial barrier across a watercourse that causes water to be stored deeper than and generally beyond the banks of the natural channel of the watercourse during periods of normal flow, but does not include water stored behind rock piles, rock riffle dams, and low channel dams where the depth of water is less than ten feet above the channel bottom and is essentially confined within the banks of the natural channel during periods of normal stream flow.

"Inflatable watercraft" means any vessel constructed of rubber, canvas, or other material that is designed to be inflated with any gaseous substance, constructed with two or more air cells, and operated as a vessel. An inflatable watercraft propelled by a motor is a powercraft. An inflatable watercraft propelled by a sail is a sailboat. An inflatable watercraft propelled by human muscular effort utilizing a paddle or pole is a paddlecraft. An

inflatable watercraft propelled by human muscular effort utilizing an oar with the aid of a fulcrum provided by oarlocks, tholepins, crutches, or similar arrangements is a rowboat.

"In operation" in reference to a vessel means that the vessel is being navigated or otherwise used on the waters in this state.

"Kayak" means a paddlecraft that is typically pointed at both ends and is propelled by human muscular effort by one or more seated individuals who use a double-bladed paddle, including an open kayak with an open deck for operator seating, an enclosed kayak designed to enclose an occupant within a cockpit, a tandem kayak designed for multiple occupants, and a racing kayak.

"Law enforcement vessel" means any vessel used in law enforcement or under the command of a law enforcement officer.

"Muffler" means an acoustical suppression device or system that is designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and that prevents excessive or unusual noise.

"Navigable waters" means waters that come under the jurisdiction of the department of the army of the United States and any waterways within or adjacent to this state, except inland lakes having neither a navigable inlet nor outlet.

"No wake" has the same meaning as "idle speed."

"Operator" includes any person who uses, navigates, employs, or has under the person's control a vessel, or vessel and detachable motor, on the waters in this state.

"Owner" includes any person, other than a secured party, who claims lawful possession of a vessel by virtue of legal title or equitable interest therein that entitled the person to use or possess the vessel, including a person entitled to use or possess a vessel subject to a security interest in another person, but does not include a lessee under a lease not intended as a security.

"Paddlecraft" means any type of canoe, kayak, paddleboard, or other vessel powered only by its occupants using a single or double-bladed paddle as a lever without the aid of a fulcrum provided by oarlocks, tholepins, crutches, or similar mechanisms.

"Performance type" means the in-water performance classification of a personal flotation device as determined by the United States coast guard.

"Person" includes any legal entity defined as a person in section 1.59 of the Revised Code and any body politic, except the United States and this state, and includes any agent, trustee, executor, receiver, assignee, or other representative thereof.



"Personal flotation device" means a United States coast guard approved personal safety device designed to provide buoyancy to support a person in the water.

"Personal watercraft" means a vessel, less than sixteen feet in length, that is propelled by a water-jet pump or other machinery and designed to be operated by an individual sitting, standing, or kneeling on the vessel rather than by an individual sitting or standing inside the vessel.

"Powercraft" means any vessel propelled by machinery, fuel, rockets, or similar device.

"Recreational river area" means an area declared a recreational river area by the director under this chapter and includes those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.

"Rowboat" means an open vessel, other than a paddlecraft, that is designed to be rowed and that is propelled by human muscular effort by oars and upon which no mechanical propulsion device, electric motor, internal combustion engine, or sail has been affixed or is used for the operation of the vessel. "Rowboat" includes a racing shell and a rowing skull regardless of length or construction.

"Rules" means rules adopted by the chief of the division of parks and watercraft under this chapter or Chapter 1547. of the Revised Code, unless the context indicates otherwise.

"Sailboat" means any vessel, equipped with mast and sails, dependent upon the wind to propel it in the normal course of operation.

A vessel with sail as its primary method of propulsion and mechanical propulsion as its secondary method of propulsion is an auxiliary sail.

Any sailboat being propelled by mechanical power, whether under sail or not, is deemed a powercraft and subject to all laws and rules governing powercraft operation.

"Scenic river area" means an area declared a scenic river area by the director under this chapter and includes those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.

"Sewage" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body waste.

"Throwable personal flotation device" means a device that is intended to be thrown to a person in the water. "Throwable personal flotation device" includes a personal flotation device marked as "Type IV" or "Type V with

Type IV performance." "Throwable personal flotation device" does not include a wearable personal flotation device unless it is specifically marked otherwise.

"Towed watersport" means any activity that involves being towed by or riding in the wake of a recreational vessel, including both of the following:

(1) Riding or attempting to ride on one or more water skis, a wakeboard, a surfboard, an inflatable device, or any other device manufactured or used for the purpose of being towed by a recreational vessel;

(2) Engaging or attempting to engage in barefoot skiing or parasailing.

"Type one personal flotation device" means a device that is designed to turn an unconscious person floating in water from a face downward position to a vertical or slightly face upward position and that has at least nine kilograms, approximately twenty pounds, of buoyancy.

"Type two personal flotation device" means a device that is designed to turn an unconscious person in the water from a face downward position to a vertical or slightly face upward position and that has at least seven kilograms, approximately fifteen and four-tenths pounds, of buoyancy.

"Type three personal flotation device" means a device that is designed to keep a conscious person in a vertical or slightly face upward position and that has at least seven kilograms, approximately fifteen and four-tenths pounds, of buoyancy.

"Type four personal flotation device" means a device that is designed to be thrown to a person in the water and not worn and that has at least seven and five-tenths kilograms, approximately sixteen and five-tenths pounds, of buoyancy.

"Type five personal flotation device" means a device that, unlike other personal flotation devices, has limitations on its approval by the United States coast guard, including, without limitation, any of the following:

(1) A designation that states the device is approved only for use while participating in specific activities;

(2) A designation that states the device is approved only for use by an operator or passenger of specific types of vessels;

(3) A designation that states the device is specifically approved as a substitute for the type of personal flotation device required for use while engaged in certain activities or as an operator or passenger of a vessel.

"Vessel" includes every description of craft, including nondisplacement craft, multimodal craft, and submersibles, being used or capable of being used as a means of transportation on water.

"Visible" means visible on a dark night with clear atmosphere.

"Watercourse" means a substantially natural channel with recognized

banks and bottom in which a flow of water occurs, with an average of at least ten feet mean surface water width and at least five miles of length.

"Watercraft" means any of the following when used or capable of being used for transportation on the water:

(1) A vessel operated by machinery either permanently or temporarily affixed;

(2) A sailboat other than a sailboard;

(3) An inflatable, manually propelled vessel that is required by federal law to have a hull identification number meeting the requirements of the United States coast guard;

(4) A canoe, kayak, pedalboat, or rowboat;

(5) Any of the following multimodal craft being operated on waters in this state:

(a) An amphibious vehicle;

(b) A submersible;

(c) An airboat or hovercraft.

(6) A vessel that has been issued a certificate of documentation with a recreational endorsement under 46 C.F.R. 67.

"Watercraft" does not include ferries as referred to in Chapter 4583. of the Revised Code.

Watercraft subject to section 1547.54 of the Revised Code are divided into five classes as follows:

Class A: Less than sixteen feet in length;

Class 1: At least sixteen feet, but less than twenty-six feet in length;

Class 2: At least twenty-six feet, but less than forty feet in length;

Class 3: At least forty feet, but less than sixty-five feet in length;

Class 4: At least sixty-five feet in length.

"Watercraft dealer" means any person who is regularly engaged in the business of manufacturing, selling, displaying, offering for sale, or dealing in vessels at an established place of business that is used primarily for the selling, displaying, offering for sale, or dealing of vessels. "Watercraft dealer" does not include a person who is a marine salvage dealer or any other person who dismantles, salvages, or rebuilds vessels using used parts.

"Waters in this state" means all streams, rivers, lakes, ponds, marshes, watercourses, waterways, and other bodies of water, natural or humanmade, that are situated wholly or partially within this state or within its jurisdiction and are used for recreational boating.

"Wearable personal flotation device" means a device that is intended to be worn or otherwise attached to a person's body. "Wearable personal flotation device" includes a personal flotation device marked as "Type I."

"Type II," "Type III," "Type V with Type II performance," or "Type V with Type III performance."

"Wild river area" means an area declared a wild river area by the director of natural resources under this chapter and includes those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted, representing vestiges of primitive America.

Sec. 1546.02. (A) There is hereby created in the department of natural resources the division of parks and watercraft. The division shall do all of the following:

(1) Administer and enforce all laws relative to the identification, numbering, registration, titling, use, and operation of vessels operated on the waters in this state;

(2) Promote, and educate and inform the citizens of the state about, conservation, navigation, safety practices, and the benefits of recreational boating;

(3) Provide for and assist in the development, maintenance, and operation of marine recreational facilities, docks, launching facilities, and harbors for the benefit of public navigation, recreation, or commerce if the chief of the division determines that they are in the best interests of the state;

(4) Provide wild, scenic, and recreational river area conservation education and provide for corridor protection, restoration, habitat enhancement, and clean-up projects in those areas;

(5) Coordinate and plan trails in accordance with section 1519.03 of the Revised Code;

(6) Administer any state or federally funded grant program that is related to natural resources and recreation as considered necessary by the director of natural resources.

(B) The division shall create, supervise, operate, protect, and maintain, and promote the use by the public of, a system of state parks and wild, scenic, and recreational river areas. As part of that responsibility, the division shall control and manage all lands and waters dedicated and set apart for state park purposes. The division shall do all of the following regarding those lands and waters:

(1) Protect and maintain them;

(2) Make alterations and improvements;

(3) Construct and maintain dikes, wharves, landings, docks, dams, and other works;

(4) Construct and maintain roads and drives in, around, upon, and to the lands and waters to make them conveniently accessible and useful to the

public.

Sec. 1546.021. The division of parks and watercraft may accept, receive, and expend gifts, devises, or bequests of money, lands, or other properties under the terms set forth in section 9.20 of the Revised Code.

Sec. 1546.03. (A) The chief of the division of parks and watercraft shall act as a designee of the director of natural resources. The chief, with approval of the director, shall select such number of technical and administrative assistants as the chief deems necessary to assist the chief in administering the division and fix their compensation in accordance with sections 124.14, 124.15, 124.152, 124.18, and 1501.05 of the Revised Code.

The chief, with the approval of the director, shall determine policies and programs for the division.

(B) The chief may designate license agents with the approval of the director.

(C) The division is hereby designated as the agency to administer the Ohio boating safety program. The division also shall administer federal funds allocated under the "Federal Boat Safety Act of 1971," 85 Stat. 222, 46 U.S.C. 1475(a)(6), as amended. The chief shall prepare and submit reports in such form as may be required by that act.

(D) The chief may sell any of the following:

(1) Items related to or that promote boating safety, including pins, badges, books, bulletins, maps, publications, calendars, and other educational articles;

(2) Artifacts pertaining to boating;

(3) Confiscated or forfeited items;

(4) Surplus equipment.

(E) The chief may enforce any rules adopted under section 1546.04 of the Revised Code.

Sec. 1546.04. (A) Except as provided in this section, the chief of the division of parks and watercraft, with the approval of the director of natural resources, shall adopt rules in accordance with Chapter 119. of the Revised Code that are necessary for the proper management of state parks, bodies of water, and the lands adjacent to them under its jurisdiction and control, including rules:

(1) Governing opening and closing times and dates of state parks;

(2) Establishing fees and charges for use of facilities in state parks;

(3) Governing camps, camping, and fees for camps and camping;

(4) Governing the application for and rental of, rental fees for, and the use of cottages;

(5) Relating to public use of state park lands, and governing the

operation of motor vehicles, including speeds and parking on those lands:

(6) Governing all advertising within state parks and requirements for the operation of places selling tangible personal property and food service sales on lands and waters under the control of the division. The rules shall establish uniform requirements for those operations and sales.

(7) Providing uniform standards relating to the size, type, location, construction, and maintenance of structures and devices used for fishing or moorage of watercraft, rowboats, sailboats, and powercraft over waters under the control of the division and establishing reasonable fees for the construction of, and annual use permits for, those structures and devices;

(8) Governing state beaches, swimming, inflatable devices, and fees for them;

(9) Governing the removal and disposition of any watercraft, rowboat, sailboat, or powercraft left unattended for more than seven days on any lands or waters under the control of the division;

(10) Governing the establishment and collection of check collection charges for checks that are returned to the division or dishonored for any reason;

(11) Governing natural resources officers in all parks and bodies of water and lands adjacent to those bodies under the supervision and control of the division as are necessary to the proper management of such parks and bodies of water.

(B) The chief shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a discount program for all persons who are issued a golden buckeye card under section 173.06 of the Revised Code. The discount program shall provide a discount for all park services and rentals, but shall not provide a discount for the purchase of merchandise.

(C) The chief, with the approval of the director of natural resources, may adopt rules in accordance with Chapter 119. of the Revised Code that establish all of the following:

(1) Requirements governing the administration of state parks;

(2) Requirements considered necessary by the chief to supplement the identification, operation, titling, use, registration, and numbering of watercraft or vessels as provided in Chapters 1547. and 1548. of the Revised Code;

(3) Requirements governing the navigation of vessels on waters in this state, including rules regarding steering and sailing, the conduct of vessels in sight of one another or in restricted visibility, lights and shapes of lights used on vessels, and sound and light signals. As the chief considers necessary, the chief shall ensure that those rules are consistent with and

equivalent to the regulations and interpretive rulings governing inland waters adopted or issued under the "Inland Navigational Rules Act of 1980," 94 Stat. 3415, 33 U.S.C. 151, 1604, 1605, 1608, 2001 to 2008, and 2071 to 2073.

(4) Requirements governing the use, visitation, protection, and administration of wild, scenic, and recreational river areas;

(5) Requirements and procedures governing vessel safety inspection checkpoints, including procedures that comply with statutory and constitutional provisions governing searches and seizures by law enforcement officers;

(6) Fees and charges for all of the following:

(a) Boating skill development classes and other educational classes;

(b) Law enforcement services provided at special events when the services are in addition to normal enforcement duties;

(c) Inspections of vessels or motors conducted under Chapter 1547. or Chapter 1548. of the Revised Code;

(d) The conducting of stream impact reviews of any planned or proposed construction, modification, renovation, or development project that may potentially impact a watercourse within a designated wild, scenic, or recreational river area.

(D) The chief shall not adopt rules under this section establishing fees or charges for parking a motor vehicle in a state park or for admission to a state park.

Sec. 1546.05. (A) Every disabled veteran is exempt from the fees for camping established by rule. To claim this exemption, the disabled veteran shall carry in the state park such evidence of the veteran's disability as prescribed by rule.

(B) Unless otherwise provided by rule, an elderly or disabled resident shall be charged one-half of the regular fee for camping, except on the weekends and holidays designated by the division of parks and watercraft. In addition, the elderly or disabled resident shall not be charged more than ninety per cent of the regular charges for state recreational facilities, equipment, services, and food service operations utilized by the resident at any time of year, whether maintained or operated by the state or leased for operation by another entity.

(C) Any person who has been a prisoner of war, was honorably discharged from the armed forces of the United States, and is a resident of this state is exempt from the fees for camping. To claim this exemption, the person shall present written evidence in the form of a record of separation, a letter from one of the military forces of the United States, or such other

evidence as the chief prescribes by rule that satisfies the eligibility criteria established by this section.

(D) As used in this section:

(1) "Disabled veteran" means either of the following:

(a) A resident of this state with a disability that has been determined by the veterans administration to be permanently and totally disabling, who receives a pension or compensation from the veterans administration, and who received an honorable discharge from the armed forces of the United States;

(b) A veteran to whom the registrar of motor vehicles has issued a set of license plates under section 4503.41 of the Revised Code.

(2) "Elderly or disabled resident" means a resident of this state who is sixty-five years of age or older or who is permanently and totally disabled and who furnishes evidence of that age or disability in a manner prescribed by rule.

(3) "Food service operations" means restaurants that are owned by the department of natural resources at Hocking Hills, Lake Hope, Malabar Farm, and Rocky Fork state parks or are part of a state park lodge. "Food service operations" does not include automatic vending machines, concession stands, or snack bars.

(4) "Prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the armed forces of the United States who was captured, separated, and incarcerated by an enemy of the United States.

Sec. ~~1541.02~~ 1546.06. The chief of the division of parks and ~~recreation watercraft~~ shall prepare and submit to the director of natural resources maps and descriptions of the areas of lands and waters which the chief intends to designate as state park purchase areas. Such state park purchase areas may include lands and waters at the time belonging to the state, together with lands and waters not belonging to the state but which for reasons of protection, utilization, and administration should be subject to purchase by the state for park purposes. If such area is approved by the director and the recreation and resources council created in section 1501.04 of the Revised Code, it shall be known as a state park purchase area, and the map and description thereof, with the approval of the director indorsed thereon, shall be filed in duplicate with the auditor of state and the attorney general.

All moneys appropriated for the purchase of lands and waters by the state for park purposes, unless specifically appropriated for the purchase of particular tracts or areas, may be expended for the purchase of lands or waters within any legally established state park purchase area. If, after the purchase of specifically designated tracts or areas, moneys from such



appropriations remain unexpended, upon the request of the director, the controlling board shall release such funds, in whole or in part, for the purchase of lands or waters within any state park purchase area.

Sec. ~~1541.031~~ 1546.07. The chief of the division of parks and ~~recreation~~ watercraft shall have the power to contract with any telephone company, which provides telephone service in the area of which a state park is located, for the establishment or maintenance of any telephone service in any location in such state park, ~~the~~. The board of directors of a conservancy district shall have the power to contract with any telephone company which provides telephone service in the area in which a park, parkway, forest preserve, bathing beach, playground, or other recreational facility of the conservancy district is located, for the establishment or maintenance of public telephone service in any location in such conservancy district park, parkway, forest preserve, or recreational facility, ~~and the~~. The director of transportation shall have the power to contract with any telephone company which provides telephone service in the area in which a highway right-of-way is located, for the establishment or maintenance of public telephone service in any location in ~~such a~~ state park or on ~~such a~~ highway right-of-way ~~and for these purposes~~.

For purposes of this section, the chief ~~of division of parks and recreation, in state parks, the board of directors of a conservancy district, in conservancy district parks, parkways, forest preserves, or recreational facilities, and the director of transportation on highway right-of-ways~~, may agree to comply with any rules and regulations of ~~such~~ the telephone company with respect to public telephone service contained in its schedules on file with the public utilities commission of Ohio or applied by such telephone company to others in similar locations. For the purpose of establishing or maintaining such public telephone service, the chief ~~of the division of parks and recreation~~ in state parks or the director of transportation on highway right-of-ways may grant to such telephone company, without charge, appropriate permits for right-of-way for its facilities necessary to establish and maintain such public telephone service which permits shall remain valid as long as such public telephones remain in service.

Sec. ~~1541.032~~ 1546.08. (A) As used in this section, "public swimming beach" means land along a shoreline that is under the control of the division of parks and ~~recreation~~ watercraft and is used by the public when swimming and bathing in waters adjacent to the beach.

(B) The chief of the division of parks and ~~recreation~~ watercraft shall ensure that the waters of this state that are adjacent to public swimming

beaches are sampled and tested in accordance with the techniques and procedures established by the director of health under section 3701.18 of the Revised Code. The department of health may assist the division of ~~of parks and recreation~~ in the sampling and testing of the waters.

(C) On receipt of notification by the director of health under section 3701.18 of the Revised Code that the bacteria levels in the waters tested present a possible health risk to persons using the waters for swimming and bathing and that the posting of signs advising the public of the condition is warranted, the chief of ~~of the division of parks and recreation~~ shall ensure that appropriate signs are posted in appropriate locations at the affected area.

Sec. ~~1541.04~~ 1546.09. The division of parks and ~~recreation~~ watercraft shall include in its annual report to the governor a statement of its action on all matters pertaining to the management and control of all state reservoirs, lakes, and lands set apart for public parks or pleasure resorts, which statement shall include a statement of the receipts and expenditures on account thereof.

Sec. ~~1541.05~~ 1546.10. (A) The chief of the division of parks and ~~recreation~~ watercraft, with the approval of the director of natural resources, may dispose of any of the following by sale, donation, trade, trade-in, recycling, or any other lawful means, in a manner that will benefit the division:

(1) Standing timber that as a result of wind, storm, pestilence, or any other natural occurrence may present a hazard to life or property, timber that has weakened or fallen on lands under the control and management of the division, or any timber or other forest products that require management to improve wildlife habitat, protect against wildfires, provide access to recreational facilities, implement sustainable forestry practices, or improve the safety, quality, or appearance of any state park area;

(2) Spoils of a dredging operation conducted by the division in waters under the control and management of the division. Prior to the disposition of any spoils under this division, the chief shall notify the director of environmental protection of the chief's intent so that the director may determine if the spoils constitute solid wastes or hazardous waste, as those terms are defined in section 3734.01 of the Revised Code, that must be disposed of in accordance with Chapter 3734. of the Revised Code. If the director does not notify the chief within thirty days after receiving notice of the disposition that the spoils must be disposed of in accordance with Chapter 3734. of the Revised Code, the chief may proceed with the disposition.

(3) Notwithstanding sections 125.12 to 125.14 of the Revised Code,

excess supplies and surplus supplies, as those terms are defined in section 125.12 of the Revised Code;

(4) Agricultural products that are grown or raised by the division. As used in this division, "agricultural products" includes products of apiculture, animal husbandry, or poultry husbandry, field crops, fruits, and vegetables.

(5) Abandoned personal property, including golf balls that are found on property under the control and management of the division.

(B) In accordance with Chapter 119. of the Revised Code, the chief shall adopt, and may amend and rescind, such rules as are necessary to administer this section.

(C) Except as provided in division (D) of this section, proceeds from the disposition of items under this section shall be deposited in the state treasury to the credit of the state park fund created in section ~~1541.22~~ 1546.21 of the Revised Code.

(D) The chief of the division of parks and ~~recreation~~ watercraft may enter into a memorandum of understanding with the chief of the division of forestry to allow the division of forestry to administer the sale of timber and forest products on lands that are owned or controlled by the division of parks and ~~recreation~~ watercraft. Proceeds from the sale of timber or forest products pursuant to the memorandum of understanding shall be apportioned as follows:

(1) Seventy-five per cent of the proceeds shall be deposited in the state treasury to the credit of the state park fund.

(2) Twenty-five per cent of the proceeds shall be deposited in the state treasury to the credit of the state forest fund created in section 1503.05 of the Revised Code.

Sec. ~~1541.06~~ 1546.11. The following bodies of water and lands are hereby dedicated and set apart forever for the use of the public as public parks or pleasure resorts:

(A) The body of water and adjacent state lands in Licking, Fairfield, and Perry counties, known as the Licking reservoir or Buckeye Lake;

(B) The body of water and adjacent state lands in the northwestern part of Logan county, known as the Lewistown reservoir or Indian Lake;

(C) The body of water and adjacent lands owned by the state in Mercer county, known as the Lake St. Marys;

(D) The bodies of water and adjacent lands owned by the state consisting of the Summit county lakes and reservoirs of the Ohio canal, known as the Portage-Summit reservoirs, together with the Summit lake and enough of the Summit level of the Ohio canal to maintain the present water level of Summit and Nesmith lakes, and the body of water and exterior lands

adjacent thereto that are included in the reservoir constructed by the board of public works in Coventry township for the purpose of supplying water for the Ohio canal, known as North reservoir, all situated in Summit county;

(E) The body of water and adjacent lands owned by the state in Shelby and Auglaize counties, and known as the Loramie reservoir.

The bodies of water mentioned in this section shall, in the order in which they are described, be named and designated as follows: "Buckeye Lake," "Indian Lake," "Lake St. Marys," "The Portage Lakes," and "Lake Loramie."

Sec. ~~1541.07~~ 1546.12. The lakes named in section ~~1541.06~~ 1546.11 of the Revised Code shall at all times be open to the public as resorts for recreation and pleasure, including hunting, fishing, and boating. The privileges of hunting and fishing shall be subject to the fish and game laws of the state, and the boating privileges shall be subject to the rules and regulations prescribed by law and the division of parks and ~~recreation~~ watercraft.

Sec. ~~1541.082~~ 1546.13. When buildings located on state land are sold on foreclosure in a delinquent tax suit or in a mortgage foreclosure suit, the state immediately shall transfer to the purchaser of the buildings the lease for the state lands on which the buildings are located or shall cancel the former lease and execute a new lease to the purchaser. If a new lease is executed, it shall be for the same annual rental, contain the same restrictions, and grant the same privileges enjoyed by the former owner, including the privilege of purchasing the land in accordance with section 1501.01 of the Revised Code.

Sec. ~~1541.083~~ 1546.14. The chief of the division of parks and ~~recreation~~ watercraft, with the approval of the director of natural resources, the attorney general, and the governor, may make leases to parties making application for leases granting permission to take and remove halite from beneath the surface of Headlands state park in Lake county, and coal by underground mining methods from beneath the surface of Jefferson state park in Jefferson county and from beneath the surface of Burr Oak state park in Athens and Morgan counties pursuant to lease agreements and real estate transactions that have been entered into not later than January 1, 2011, if the chief finds that such taking and removal will in no way affect the surface of the land or the use of the land as a public park. As the chief deems in the best interest of the state, those leases may be made either upon a royalty or rental basis, and may be either for a term of years or until the economic extraction of the mineral covered by the lease has been completed. Upon request from the lessee of any such lease, the chief may consent to its

cancellation, but any equipment or improvement thereon owned by the lessee may be held as security by the chief for payment of all rentals, royalties, and damages due the state at the time of cancellation.

Sec. ~~1541.09~~ 1546.15. The division of parks and ~~recreation~~ watercraft shall make and enforce such rules and regulations, including the appointment and government of park and patrol officers in all parks and bodies of water and lands adjacent thereto under the supervision and control of the division, as are necessary to the proper management of such parks and bodies of water, and in accordance with sections 119.01 to 119.13, inclusive, of the Revised Code.

Sec. ~~1541.16~~ 1546.16. The chief of the division of parks and ~~recreation~~ watercraft shall issue pilot licenses and engineer licenses to all persons employed by a boat owner or operator to act as pilot or engineer on any boat carrying passengers for hire on reservoir parks or other bodies of water under the supervision and control of the division. The applicant for such license shall be over eighteen years of age and of good character. The violation of any of the sections of the Revised Code relating to reservoir parks or other bodies of water under supervision and control of the division or any rule or regulation of the division for the management of such reservoir parks or other bodies of water shall be cause for the chief to revoke such license.

Sec. ~~1541.17~~ 1546.17. The chief of the division of parks and ~~recreation~~ watercraft shall inspect all boats and watercraft maintained and operated in or upon the waters of any state reservoir, lakes, canals, and feeders, and may condemn any such boat or watercraft which is unsafe for the carrying of passengers. No owner of a boat or watercraft so condemned shall offer it for hire. If such owner violates this section, the permit issued to ~~him~~ the owner shall be revoked and annulled.

Sec. ~~1541.18~~ 1546.18. A ~~reservoir park police patrolman~~ natural resources officer appointed under section 1501.24 of the Revised Code may take possession of and hold a boat or other property if such action appears necessary in the course of making an arrest of a person violating sections ~~1541.09 1546.15 to 1541.17, inclusive,~~ 1546.17 of the Revised Code. ~~He~~ A natural resources officer shall not be held liable for the loss of or any damage done to such boat or other property taken and held by reason of the failure to comply with such sections, provided ordinary care is exercised in the handling of such property. No person shall take possession of a boat or other property which has been taken in charge by a ~~police patrolman or other~~ natural resources officer as provided in this section, until ~~such patrolman or~~ the officer has released same.

Sec. ~~1541.19~~ 1546.19. No person shall engage in the hunting of wildlife, either with a gun or with a bow and arrow, on lands or waters operated or administered by the division of parks and ~~recreation~~ watercraft, except on such lands or waters as are exempted by the chief of the division ~~of parks and recreation~~, under specific orders adopted in conformity with sections 119.01 to 119.13 of the Revised Code. No person shall engage in the discharge of firearms except during open season for hunting of wildlife on lands or waters exempted as provided in this section, or except in such places where there is provided by the division, skeet, trap shooting, or other shooting ranges. No person shall engage in the discharge of fireworks on lands or waters operated or administered by the division, except a licensed exhibitor of fireworks who is acting in accordance with sections 3743.50 to 3743.55 of the Revised Code and who has obtained the written permission of the chief of the division ~~of parks and recreation~~ for a particular public fireworks exhibition.

Sec. ~~1541.20~~ 1546.20. No person shall injure, alter, destroy, remove, or change any tree, building, dock, or land, or part thereof, within a state reservoir park or other body of water under the supervision and control of the division of parks and ~~recreation~~ watercraft, or construct any building or dock within such reservoir park, without the written permission of the chief of the division ~~of parks and recreation~~. All lessees of state lands or lots shall keep the premises in good condition and free of weeds, inflammable substances, garbage, and all other unsightly or dangerous things. Proof that any state premises under lease are used for illegal or immoral purposes shall be just cause for the chief to cancel the leasehold for such state property.

Sec. ~~1541.22~~ 1546.21. (A) The chief of the division of parks and ~~recreation~~ watercraft shall collect all rentals from leases of state lands and moneys for pipe permits, dock licenses, concession fees, and special privileges of any nature from all lands and waters operated and administered by the division ~~of parks and recreation~~. The chief shall keep a record of all such payments showing the amounts received, from whom, and for what purpose collected. All such payments shall be credited to the state park fund, which is hereby created in the state treasury, except such revenues required to be set aside or paid into depositories or trust funds for the payment of bonds issued under sections 1501.12 to 1501.15 of the Revised Code, and to maintain the required reserves therefor as provided in the orders authorizing the issuance of such bonds or the trust agreements securing such bonds, and except such revenues required to be paid and credited pursuant to the bond proceedings applicable to obligations issued pursuant to section 154.22 of the Revised Code. All moneys derived from the operation of the lands,

waters, facilities, and equipment by the division, except such revenues required to be set aside or paid into depositories or trust funds for the payment of bonds issued under sections 1501.12 to 1501.15 of the Revised Code, and to maintain the required reserves therefor as provided in the orders authorizing the issuance of such bonds or the trust agreements securing such bonds, and except such revenues required to be paid and credited pursuant to the bond proceedings applicable to obligations issued pursuant to section 154.22 of the Revised Code, shall accrue to the credit of the state park fund.

Except as otherwise provided in division (B) of this section and in sections 154.22, 1501.11, and 1501.14 of the Revised Code, such fund shall not be expended for any purpose other than the administration, operation, maintenance, development, and utilization of lands and waters, and for facilities and equipment incident thereto, administered by the division, or for the further purchase of lands and waters by the state for park and recreational purposes.

(B) The chief shall use moneys in the fund from the issuance of Ohio state parks license plates under section 4503.575 of the Revised Code only to pay the costs of state park interpretive and educational programs and displays and the development and operation of state park interpretive centers.

Sec. ~~1541.23~~ 1546.22. There is hereby created in the state treasury the parks capital expenses fund. The fund shall consist of moneys transferred to it from the parks and recreation improvement fund created in section 154.22 of the Revised Code. The parks capital expenses fund shall be used to pay design, engineering, and planning costs that are incurred by the department of natural resources for parks-related capital projects.

Sec. ~~1541.24~~ 1546.23. The dedication or setting apart of any state reservoir or lake as a public park or pleasure resort shall not interfere with or affect the use of such reservoir or lake for canal reservoir purposes, and the chief of the division of parks and ~~recreation~~ watercraft shall not be restricted in any manner from making such repairs and improvements thereon as are necessary for maintaining the safety and usefulness of such reservoir or lake for canal purposes. The authority for the division to manage and control such reservoir or lake for canal purposes is the same as if no dedication of such reservoir or lake for park and pleasure resort purposes had been made.

Sec. ~~1541.26~~ 1546.24. There is hereby created in the state treasury the parks mineral royalties fund. The fund shall consist of money deposited into it under section 1509.73 of the Revised Code and money transferred to it under section 1503.012 of the Revised Code. Any investment proceeds

earned on money in the fund shall be credited to the fund.

Money in the fund shall be used by the division of parks and ~~recreation~~ watercraft to acquire land and to pay capital costs, including equipment and repairs and renovations of facilities, that are owned by the state and administered by the division. Expenditures from the fund shall be approved by the director of natural resources.

Sec. ~~1541.40~~ 1546.30. There is hereby created in the division of parks and ~~recreation~~ watercraft an Ohio parks and recreation council, which shall consist of seven members to be appointed by the governor with the advice and consent of the senate. By reason of vocation, employment, or affiliation one of the members shall be classed as a representative of municipal parks, one as a representative of metropolitan park districts, one as a representative of conservancy districts, one as a representative of soil and water conservation districts, one as a representative of private recreational facilities, and two as representatives of the public.

Terms of office shall be for three years, commencing on the first day of February and ending on the thirty-first day of January. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

The council shall annually select from among its members a chairperson and a vice-chairperson.

Members of the council shall receive no compensation, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the council.

The council shall hold at least one regular meeting in each quarter of each calendar year, and shall keep a record of its proceedings, which shall be open to the public for inspection. Special meetings may be called by the chairperson, and shall be called by the chairperson upon receipt of a written request therefor signed by two or more members of the council. A written notice of the time and place of each meeting shall be sent to each member of the council. A majority of the members of the council shall constitute a quorum.

The chief of the division of parks and ~~recreation~~ watercraft shall act as secretary of the council. Technical, legal, and other services required by the council in the performance of its official duties shall be furnished by the



personnel of the division of parks and ~~recreation~~ watercraft.

The governor may remove any member of the council at any time for inefficiency, neglect of duty, or malfeasance in office.

Sec. ~~1541.41~~ 1546.31. For the purpose of assisting in the development of recreational facilities throughout the state for public use, the Ohio parks and recreation council may:

(A) Advise with and recommend to the chief of the division of parks and ~~recreation~~ watercraft the development of broad park and recreation policies for the state and the formulation of a long range plan to implement them;

(B) Make a continuing appraisal of the total state park and recreation needs and adequacy of current efforts to meet them, including the planning, programming, and financing thereof;

(C) Advise with and recommend to the chief the co-ordination of related park and recreation programs administered by all units of government and by private enterprise;

(D) Advise with and recommend to the chief policies and programs for the division of parks and ~~recreation~~ watercraft, including the acquisition of lands for parks and recreational development, and the development of the criteria therefor;

(E) Advise with and recommend to the chief the standards and criteria to be established as a basis for extending financial assistance to local subdivisions of the state for the acquisition of recreational lands and facilities;

(F) Advise with and recommend the encouragement of private park and recreational development;

(G) Have access to all information, statistics, plans, and data which any governmental agency within the state has available and which the council deems pertinent in reviewing plans and programs for the development of parks and recreational facilities.

Sec. ~~1541.31~~ 1546.90. That the compact or agreement mentioned below and every article, matter, and thing therein is hereby ratified and approved and shall be and hereafter remain in force agreeable to the true tenor and intent thereof.

AGREEMENT BETWEEN THE COMMONWEALTH OF  
PENNSYLVANIA

AND THE STATE OF OHIO RE PYMATUNING LAKE

This agreement made and concluded between the commonwealth of Pennsylvania, acting by and through its lawfully authorized agency, namely, the water and power resources board, as party of the first part, and the state

of Ohio, acting by and through its lawfully authorized agency, namely, its conservation commissioner, as party of the second part,

Witnesseth:

Whereas, By act of assembly of Pennsylvania approved May 2, 1929, P. L. 1503, as amended by acts of May 5, 1931, P. O. 84, April 24, 1933, P. L. 67, and July 9, 1935, P. L. 619, the department of forests and waters of Pennsylvania, acting through the water and power resources board, was authorized, inter alia, to complete the work begun and continued under an act approved July 25, 1913, P. L. 1270, entitled "An act providing for the erection of a dam at the outlet of Pymatuning swamp, and the establishment of a reservoir to conserve the waters thereof; providing for the taking of land and materials necessary thereto; vesting certain powers and duties in the water supply commission; and making an appropriation", and did duly complete said work, whereby there was created a lake or reservoir, now known and hereinafter called Pymatuning Lake, extending in part across the boundary line between said states of Ohio and Pennsylvania into the state of Ohio, and

Whereas, The primary purposes of the project by which said lake was created was to conserve water draining said swamp, all of which has its source in Pennsylvania, as well as control floods and regulate the flow of water in the Shenango and Beaver rivers, and secondary thereto, permit the water and the land surrounding the same to be used for fishing, hunting, recreation and park purposes, under such terms and conditions as the water and power resources board might determine, in such way or ways as in the opinion of the said board will not materially interfere with the primary purpose in said acts of assembly and hereinbefore specifically referred to, and

Whereas, In view of the fact that a certain part of the lake extends into the state of Ohio, whereby it is necessary and desirable that the use of the lake for the secondary purposes, namely, hunting, fishing, and recreational use, be uniformly provided for, as well as to guard against inconvenience and mischiefs which might hereafter arise from the uncertainty of jurisdiction within and on said lake, to the end that the lake may be adequately policed and conflicts of jurisdiction for the arrest and punishment of offenders be avoided.

Now, then, therefore, in order that law and justice may in all such cases be executed and take effect upon said lake from shore to shore in all parts and places thereof where the lake is a boundary between said states, the said parties hereto do agree for and in behalf of their respective states in the manner following:

1. General use. It is hereby agreed that the entire Pymatuning lake or reservoir, subject to the primary use thereof by the commonwealth of Pennsylvania for regulating the flow of the water in the Shenango and Beaver rivers as in paragraph 9 hereinafter more specifically mentioned, shall be open for recreational use equally to the citizens of both contracting parties, save as restricted as to hunting, fishing, and boating in this agreement set forth, or hereafter mutually agreed upon by both parties but no person shall be permitted to hunt or fish therein or thereon unless the lawful holder of a fishing or hunting license, authorizing the holder so to do, issued by the proper authorities of Pennsylvania or of Ohio.

2. Arrest and prosecution of offenders. That each state shall enjoy and exercise a concurrent jurisdiction upon the water (but not upon the dry land), between the shores of said lake, including the islands therein, with respect to the arrest and prosecution of offenders, but in such sort that any boat or vessel fastened to or aground on the shore of either state shall be considered exclusively within the jurisdiction of said state; but that all capital and other offenses, trespasses, or damages committed on or over said lake, the judicial investigation and determination thereof shall be exclusively vested in the state wherein the offender or person charged with such offense shall be first apprehended, arrested, prosecuted, or first brought to trial; it being the intent of this agreement that an offender may be pursued and arrested anywhere on or over said lake or shores thereof or islands therein, regardless of the boundary lines, by any peace officers or persons of either state authorized to make arrests, whether the offenses be committed on or over any part of the lake, on the shores or islands therein, regardless of the state in which the place where the offense was committed lies.

3. Islands. All islands within the lake shall be considered as part of the state of Pennsylvania.

4. Pollution of water. The lake shall be forever protected against pollution of its waters by industrial trade waste, individual, or municipal sewage from shore or boat, and the discharge of any noxious or deleterious substance, liquid or solid, into the waters of the lake which is or may become inimical, or injurious, to public health or to animal or aquatic life is hereby expressly forbidden.

No sewage may be discharged into the waters of the lake except after complete treatment and then only upon permit first approved by the health department of both states.

5. Watercraft. No person shall operate any watercraft propelled by a single motor, or any combination of motors, that produces a horsepower rating in excess of twenty horsepower on Pymatuning Lake, except police or

administration watercraft, the number of which shall be mutually agreed upon by the parties hereto.

No person shall operate a watercraft without first obtaining a license from the respective state of which the owner is a resident under such regulations as each party to this agreement may now have or hereafter adopt. Provided nevertheless that the use of any type of watercraft equipped with a motor is expressly limited and restricted to that portion of the lake extending from the main dam near Jamestown northwardly to the causeway at or near Linesville. Watercraft equipped with a motor in excess of a twenty horsepower rating may be operated on said lake so long as such motor is not used.

No person shall ride or attempt to ride upon one or more water skis, surfboards, towed inflatable devices, or similar devices or use or operate any watercraft to tow a person thereon.

Nothing contained in this subdivision shall be interpreted to effect a change in the level or flow of water as determined or fixed by the department of conservation and natural resources.

Any one who violates any of the provisions of this subdivision shall, upon conviction thereof, be sentenced in accordance with the applicable laws for the same or similar violations within the prosecuting jurisdiction, provided that the penalty for said violation shall not exceed a fine of five hundred dollars or imprisonment for thirty days.

6. Fishing. Any person possessing a duly issued fishing license by either state shall be permitted to fish anywhere on the entire lake (except such portion thereof as is closed to fishing by paragraph 8 hereof or such further portion as may hereafter by regulation be mutually agreed to by the parties hereto), but no fisher shall be entitled to fish from the shores of the state of which the fisher is a nonresident unless the fisher complies with the nonresident fishing license law of said state.

In order to permit the fish to fully propagate and develop, no part of the lake shall be open for fishing until July 1, 1937, and thereafter shall be closed in each year between December 10 and June 30.

Unless otherwise mutually agreed to by both parties hereto, the creel, size, and season limits for the respective kinds of fish caught shall be such as may hereafter be agreed upon between the two states.

7. Reciprocal hunting rights. Reciprocal hunting rights are hereby granted to the licensed hunters of each state on the water of that portion of the lake, both in Pennsylvania and Ohio, over the area bounded on the south by an east and west line crossing the state boundary 0.5 of a mile north of Simons, Ohio, and on the north by a line drawn between the point at which

the Padanaram road crosses the state boundary and a point formerly known as the Polleck bridge, but such reciprocal hunting rights hereby granted shall extend only to such wild migratory birds as are covered by the federal migratory bird treaty and federal laws adopted thereunder.

Hunting in such portions of the lake as are not included in the area above described and designated shall be and remain under the jurisdiction of the commonwealth of Pennsylvania.

No permanent blinds shall be erected anywhere on the lake and shores thereof, but this provision shall not be interpreted as forbidding the use of a boat as a blind temporarily moored to or grounded on the shore of the lake or islands thereof.

8. Wild game and fish sanctuaries. A. The game commission of the state of Pennsylvania, having established a wild migratory bird and game sanctuary or refuge in that part of the lake located southeast of the Pennsylvania railroad crossing, it is expressly agreed that nothing herein contained shall be interpreted as entitling the residents of either state, whether licensed to fish or hunt, or otherwise, to fish in, hunt, trespass, or enter upon said sanctuary for any purpose whatsoever. Anyone so doing shall become amenable to prosecution therefor under the game laws of the state of Pennsylvania applicable to game refuges.

B. The conservation division of the department of agriculture of the state of Ohio, having established a fish sanctuary and game refuge in the following portion of the lake:

Being the southerly parts of lots Nos. 79 and 80, Richmond township; all of lot No. 41, and all of lot No. 42, except the westerly 1000 feet thereof, in Andover township, Ashtabula county, Ohio:

Beginning at a point in the west line of lot No. 79, that is 1523 feet south of the north line of lot No. 79; also being the center line of Padanaram road; thence southerly along the county highway along the westerly side of lot No. 79, 1869.5 feet to the north line of Andover township; thence westerly along the northerly line of Andover township, 939.7 feet to the northwest corner of lot No. 41; thence southerly along the highway that marks the westerly line of lot No. 41, 2809.8 feet to the north line of lot No. 42; thence easterly along the north line of lot No. 42, 1000 feet to a point; thence in a southerly direction parallel to and 1000 feet easterly from the westerly line of lot No. 42, 2734 feet, more or less, to the southerly line of lot No. 42; thence easterly along the said southerly line of lot No. 42, 5180.4 feet to the Ohio and Pennsylvania state line; thence northerly along the said Ohio and Pennsylvania state line, 7297.6 feet, more or less, to a point that is 1523 feet southerly from the north line of lot No. 80; thence in a westerly

direction, 1523 feet southerly from and parallel to the north lines of lots Nos. 79 and 80, 5260 feet, more or less, to the place of beginning.

It is expressly agreed that nothing herein contained shall be interpreted as entitling the residents of either state, whether licensed to fish or otherwise, to fish in, hunt, trespass, or enter upon said sanctuary for any purpose whatsoever. Anyone so doing shall become amenable to prosecution therefor under the laws of the state of Ohio applicable thereto.

9. Reservation of Pennsylvania's right to the body of the water. It is expressly agreed that nothing herein contained shall operate to deny, limit, or restrict the right of the water and power resources board of Pennsylvania, or any authority established hereafter by said state to exercise such power, to at any time now or hereafter, raise or draw off so much of the waters of the lake as in its sole judgment may be necessary to maintain or regulate the flow of the Shenango and Beaver rivers in furtherance of the primary purpose for which said lake was established, and said water and power resources board shall, without let or hindrance, have the full right irrespective of other considerations, to release so much of the water as they may deem proper to maintain the flow of the Shenango and Beaver rivers, irrespective of its effect on the level of the lake or use thereof for other purposes.

Sec. ~~1541.32~~ 1546.91. The director of natural resources, as successor to the conservation commissioner mentioned in the compact set forth in section ~~1541.31~~ 1546.90 of the Revised Code, shall be administrator of said compact.

Sec. ~~1541.42~~ 1546.92. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the chief of the division of parks and ~~recreation~~ watercraft shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a license issued pursuant to this chapter.

Sec. ~~1541.99~~ 1546.99. Whoever violates sections ~~1541.09~~ 1546.15 to ~~1541.20~~ 1546.20 of the Revised Code or any rules of the division of parks and ~~recreation~~ watercraft shall be fined not less than ten nor more than one hundred dollars.

Sec. 1547.05. (A) Except as provided in division (B) of this section, no person born on or after January 1, 1982, shall operate on the waters in this state a powercraft powered by more than ten horsepower, unless the operator successfully has completed either a safe boater course approved by the national association of state boating law administrators or a proctored or nonproctored proficiency examination that tests knowledge of information included in the curriculum of such a course, and has received a certificate as

evidence of successful completion of the course or examination.

(B) Division (A) of this section does not apply to an individual who possesses valid merchant mariner credentials issued by the United States coast guard in accordance with 46 C.F.R. 10.109 with at least one endorsement of master or operator as defined in 46 C.F.R. 10.107. Such an individual, while operating any recreational vessel on the waters in this state, shall carry onboard documentation of the merchant mariner credentials and required endorsements and shall present the documentation to a ~~watercraft~~ natural resources officer or law enforcement officer upon request.

(C) No person shall permit a powercraft to be operated on the waters in this state in violation of division (A) of this section.

Sec. 1547.051. A person born on or after January 1, 1982, who is operating on the waters in this state a powercraft powered by more than ten horsepower and who is stopped by a law enforcement officer in the enforcement of Chapter 1547. of the Revised Code or rules ~~adopted under it~~ shall present to the law enforcement officer, not later than seventy-two hours after being stopped, a certificate obtained by the person pursuant to section 1547.05 of the Revised Code prior to being stopped or proof of holding such a certificate. Failure of the person to present the certificate or proof of holding it within seventy-two hours constitutes prima-facie evidence of a violation of section 1547.05 of the Revised Code.

Sec. 1547.052. (A) No rental business shall lease, hire, or rent a powercraft powered by more than ten horsepower for operation on the waters in this state to a person born on or after January 1, 1982, unless the person meets one of the following requirements:

(1) The person signs a statement on the rental agreement or attached to the rental agreement that the person has successfully completed a safe boater course approved by the national association of state boating law administrators or has successfully completed a proficiency examination as provided in section 1547.05 of the Revised Code.

(2) The person receives educational materials from the rental business and successfully passes, with a score of ninety per cent or better, an abbreviated examination given by the rental business. The achievement of a passing score on the examination shall be indicated on or attached to the powercraft rental agreement.

(B) Any person born on or after January 1, 1982, operating or supervising the operation of a leased, hired, or rented powercraft shall:

(1) Meet the requirements for boater education of division (A) of this section.

(2) Be named as an operator on the agreement that leases, hires, or rents

the powercraft.

(C) The division of parks and watercraft shall make available to all watercraft rental businesses in Ohio boater safety educational materials and an abbreviated examination that shall be used by the watercraft rental business for the purposes of division (A)(2) of this section.

Sec. 1547.06. (A) Except as otherwise provided in this division, no person under sixteen years of age shall operate a personal watercraft on the waters in this state. A person who is not less than twelve, nor more than fifteen years of age may operate a personal watercraft if a supervising person eighteen years of age or older is aboard the personal watercraft and, in the case of a supervising person born on or after January 1, 1982, if the supervising person holds a certificate obtained under section 1547.05 of the Revised Code or, in the case of a rented powercraft, meets the requirements of section 1547.052 of the Revised Code.

(B) No person under twelve years of age shall operate any vessel on the waters in this state unless the person is under the direct visual and audible supervision, during the operation, of a person who is eighteen years of age or older. This division does not apply to a personal watercraft, which shall be governed by division (A) of this section, or to a powercraft, other than a personal watercraft, powered by more than ten horsepower, which shall be governed by division (C) of this section.

(C) No person under twelve years of age shall operate on the waters in this state a powercraft, other than a personal watercraft, powered by more than ten horsepower unless the person is under the direct visual and audible supervision, during the operation, of a person eighteen years of age or older who is aboard the powercraft and, in the case of such a supervising person born on or after January 1, 1982, who holds a certificate obtained under section 1547.05 of the Revised Code or, in the case of a rented powercraft, meets the requirements of section 1547.052 of the Revised Code.

(D) No supervising person eighteen years of age or older shall permit any person who is under the supervising person's supervision and who is operating a vessel on the waters in this state to violate any section of this chapter or a rule ~~adopted under it~~.

Sec. 1547.08. (A) No person shall operate a vessel within or through a designated bathing area or within or through any area that has been buoyed off designating it as an area in which vessels are prohibited.

(B)(1) No person shall operate a vessel at greater than idle speed or at a speed that creates a wake under any of the following circumstances:

(a) Within three hundred feet of any marina, boat docking facility, boat gasoline dock, launch ramp, recreational boat harbor, or harbor entrance on



Lake Erie or on the Ohio river;

(b) During the period from sunset to sunrise according to local time within any water between the Dan Beard bridge and the Brent Spence bridge on the Ohio river for any vessel not documented by the United States coast guard as commercial;

(c) Within any area buoyed or marked as a no wake area on the waters in this state.

(2) Division (B)(1) of this section does not apply in either of the following places:

(a) An area designated by the chief of the division of parks and watercraft unless it is marked by a buoy or sign as a no wake or idle speed area;

(b) Within any water between the Dan Beard bridge and the Brent Spence bridge on the Ohio river when the United States coast guard has authorized the holding of a special event of a community nature on that water.

(C) No person shall operate a vessel in any area of restricted or controlled operation in violation of the designated restriction.

(D) No person shall operate a vessel within three hundred feet of an official diver's flag unless the person is tendering the diving operation.

(E) All areas of restricted or controlled operation as described in division (A) of this section or as provided for in section 1547.14 or 1547.61 of the Revised Code shall be marked by a buoy or sign designating the restriction. All waters surrounded by or lying between such a buoy or sign and the closest shoreline are thereby designated as an area in which the designated restrictions shall apply in the operation of any vessel.

Markings on buoys designating areas of restricted or controlled operation shall be so spaced as to show all around the horizon. Lineal spacing between the buoys shall be such that under normal conditions of visibility any buoy shall be readily visible from the next adjacent buoy. No colors or symbols, except as provided for in rules ~~of the chief~~, shall be used on buoys or signs for marking closed or controlled areas of boating waters.

Any state department, conservancy district, or political subdivision having jurisdiction and control of impounded boating waters may place such buoys or signs on its waters. Any political subdivision may apply to the chief for permission to place such buoys or signs on other waters within its territorial limits. No person shall place or cause to be placed a regulatory buoy or sign on, into, or along the waters in this state unless the person has complied with all the provisions of this chapter.

(F) No person shall enter, operate a vessel that enters, or allow a vessel

to enter a federally declared security zone as defined in 33 C.F.R. Chapter I, subparts 6.01-1, 6.01-2, 6.01-3, 6.01-4, 6.01-5, 6.04-1, 6.04-5, 6.04-6, 6.04-7, and 6.04-8.

(G) No person shall permit any vessel to be operated on the waters in this state in violation of this section.

Sec. 1547.111. (A)(1)(a) Any person who operates or is in physical control of a vessel or manipulates any water skis, aquaplane, or similar device upon any waters in this state shall be deemed to have given consent to a chemical test or tests to determine the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine if arrested for operating or being in physical control of a vessel or manipulating any water skis, aquaplane, or similar device in violation of section 1547.11 of the Revised Code or a substantially equivalent municipal ordinance.

(b) The test or tests under division (A)(1) of this section shall be administered at the request of a law enforcement officer having reasonable grounds to believe the person was operating or in physical control of a vessel or manipulating any water skis, aquaplane, or similar device in violation of section 1547.11 of the Revised Code or a substantially equivalent municipal ordinance. The law enforcement agency by which the officer is employed shall designate which test or tests shall be administered.

(2) Any person who is dead or unconscious or who otherwise is in a condition rendering the person incapable of refusal shall be deemed to have consented as provided in division (A)(1) of this section, and the test or tests may be administered, subject to sections 313.12 to 313.16 of the Revised Code.

(B)(1) If a law enforcement officer arrests a person for operating or being in physical control of a vessel or manipulating any water skis, aquaplane, or similar device in violation of section 1547.11 of the Revised Code or a substantially equivalent municipal ordinance and if the person previously has been convicted of or pleaded guilty to two or more violations of section 1547.11 of the Revised Code or other equivalent offenses, the law enforcement officer shall request the person to submit, and the person shall submit, to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine for the purpose of determining the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine. A law enforcement officer who makes a request pursuant to this division that a person submit to a chemical test or tests is not required to advise the person of the consequences of refusing to submit to the test or

tests and is not required to give the person the form described in division (C) of this section, but the officer shall advise the person at the time of the arrest that if the person refuses to take a chemical test the officer may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. The officer shall also advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. The advice shall be in written form prescribed by the chief of the division of parks and watercraft and shall be read to the person. The form shall contain a statement that the form was shown to the person under arrest and read to the person by the arresting officer. The reading of the form shall be witnessed by one or more persons, and the witnesses shall certify to this fact by signing the form. Divisions (A)(1)(b) and (A)(2) of this section apply to the administration of a chemical test or tests pursuant to this division.

(2) If a person refuses to submit to a chemical test upon a request made pursuant to division (B)(1) of this section, the law enforcement officer who made the request may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. A law enforcement officer who acts pursuant to this division to ensure that a person submits to a chemical test of the person's whole blood or blood serum or plasma is immune from criminal and civil liability based upon a claim for assault and battery or any other claim for the acts, unless the officer so acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

(C) Except as provided in division (B) of this section, any person under arrest for violating section 1547.11 of the Revised Code or a substantially equivalent municipal ordinance shall be advised of the consequences of refusing to submit to a chemical test or tests designated as provided in division (A) of this section. The advice shall be in a written form prescribed by the chief of the division of parks and watercraft and shall be read to the person. The form shall contain a statement that the form was shown to the person under arrest and read to the person by the arresting officer. The reading of the form shall be witnessed by one or more persons, and the witnesses shall certify to this fact by signing the form. The person must submit to the chemical test or tests, subsequent to the request of the arresting officer, within two hours of the time of the alleged violation, and if the person does not submit to the test or tests within that two-hour time limit, the failure to submit automatically constitutes a refusal to submit to the test or tests.

(D) Except as provided in division (B) of this section, if a law

enforcement officer asks a person under arrest for violating section 1547.11 of the Revised Code or a substantially equivalent municipal ordinance to submit to a chemical test or tests as provided in division (A) of this section, if the arresting officer advises the person of the consequences of the person's refusal as provided in division (C) of this section, and if the person refuses to submit, no chemical test shall be given. Upon receipt of a sworn statement of the officer that the arresting law enforcement officer had reasonable grounds to believe the arrested person violated section 1547.11 of the Revised Code or a substantially equivalent municipal ordinance and that the person refused to submit to the chemical test upon the request of the officer, and upon receipt of the form as provided in division (C) of this section certifying that the arrested person was advised of the consequences of the refusal, the chief of the division of parks and watercraft shall inform the person by written notice that the person is prohibited from operating or being in physical control of a vessel, from manipulating any water skis, aquaplane, or similar device, and from registering any watercraft in accordance with section 1547.54 of the Revised Code, for one year following the date of the alleged violation. The suspension of these operation, physical control, manipulation, and registration privileges shall continue for the entire one-year period, subject to review as provided in this section.

If the person under arrest is the owner of the vessel involved in the alleged violation, the law enforcement officer who arrested the person shall seize the watercraft registration certificate and tags from the vessel involved in the violation and forward them to the chief. The chief shall retain the impounded registration certificate and tags and shall impound all other registration certificates and tags issued to the person in accordance with sections 1547.54 and 1547.57 of the Revised Code, for a period of one year following the date of the alleged violation, subject to review as provided in this section.

If the arrested person fails to surrender the registration certificate because it is not on the person of the arrested person or in the watercraft, the law enforcement officer who made the arrest shall order the person to surrender it within twenty-four hours to the law enforcement officer or the law enforcement agency that employs the law enforcement officer. If the person fails to do so, the law enforcement officer shall notify the chief of that fact in the statement the officer submits to the chief under this division.

(E) Upon suspending a person's operation, physical control, manipulation, and registration privileges in accordance with division (D) of this section, the chief shall notify the person in writing, at the person's last

known address, and inform the person that the person may petition for a hearing in accordance with division (F) of this section. If a person whose operation, physical control, manipulation, and registration privileges have been suspended petitions for a hearing or appeals any adverse decision, the suspension shall begin at the termination of any hearing or appeal unless the hearing or appeal results in a decision favorable to the person.

(F) Any person who has been notified by the chief that the person is prohibited from operating or being in physical control of a vessel or manipulating any water skis, aquaplane, or similar device and from registering any watercraft in accordance with section 1547.54 of the Revised Code, or who has had the registration certificate and tags of the person's watercraft impounded pursuant to division (D) of this section, within twenty days of the notification or impoundment, may file a petition in the municipal court or the county court, or if the person is a minor in juvenile court, with jurisdiction over the place at which the arrest occurred, agreeing to pay the cost of the proceedings and alleging error in the action taken by the chief under division (D) of this section or alleging one or more of the matters within the scope of the hearing as provided in this section, or both. The petitioner shall notify the chief of the filing of the petition and send the chief a copy of the petition.

The scope of the hearing is limited to the issues of whether the law enforcement officer had reasonable grounds to believe the petitioner was operating or in physical control of a vessel or manipulating any water skis, aquaplane, or similar device in violation of section 1547.11 of the Revised Code or a substantially equivalent municipal ordinance, whether the petitioner was placed under arrest, whether the petitioner refused to submit to the chemical test upon request of the officer, and whether the petitioner was advised of the consequences of the petitioner's refusal.

(G)(1) The chief shall furnish the court a copy of the affidavit as provided in division (C) of this section and any other relevant information requested by the court.

(2) In hearing the matter and in determining whether the person has shown error in the decision taken by the chief as provided in division (D) of this section, the court shall decide the issue upon the relevant, competent, and material evidence submitted by the chief or the person whose operation, physical control, manipulation, and registration privileges have been suspended.

In the proceedings, the chief shall be represented by the prosecuting attorney of the county in which the petition is filed if the petition is filed in a county court or juvenile court, except that if the arrest occurred within a city

or village within the jurisdiction of the county court in which the petition is filed, the city director of law or village solicitor of that city or village shall represent the chief. If the petition is filed in the municipal court, the chief shall be represented as provided in section 1901.34 of the Revised Code.

(3) If the court finds from the evidence submitted that the person has failed to show error in the action taken by the chief under division (D) of this section or in one or more of the matters within the scope of the hearing as provided in division (F) of this section, or both, the court shall assess the cost of the proceeding against the person and shall uphold the suspension of the operation, physical control, use, and registration privileges provided in division (D) of this section. If the court finds that the person has shown error in the action taken by the chief under division (D) of this section or in one or more of the matters within the scope of the hearing as provided in division (F) of this section, or both, the cost of the proceedings shall be paid out of the county treasury of the county in which the proceedings were held, the chief shall reinstate the operation, physical control, manipulation, and registration privileges of the person without charge, and the chief shall return the registration certificate and tags, if impounded, without charge.

(4) The court shall give information in writing of any action taken under this section to the chief.

(H) At the end of any period of suspension or impoundment imposed under this section, and upon request of the person whose operation, physical control, use, and registration privileges were suspended or whose registration certificate and tags were impounded, the chief shall reinstate the person's operation, physical control, manipulation, and registration privileges by written notice and return the certificate and tags.

(I) No person who has received written notice from the chief that the person is prohibited from operating or being in physical control of a vessel, from manipulating any water skis, aquaplane, or similar device, and from registering a watercraft, or who has had the registration certificate and tags of the person's watercraft impounded, in accordance with division (D) of this section, shall operate or be in physical control of a vessel or manipulate any water skis, aquaplane, or similar device for a period of one year following the date of the person's alleged violation of section 1547.11 of the Revised Code or the substantially equivalent municipal ordinance.

Sec. 1547.14. (A) Except on the waters of the Ohio River or Lake Erie and immediately connected harbors and bays, any person who rides or attempts to ride upon one or more water skis, surfboard, or similar device, or who engages or attempts to engage in barefoot skiing, and any person who operates a vessel towing a person riding or attempting to ride on one or

more water skis, surfboard, or similar device, or engaging or attempting to engage in barefoot skiing, shall confine that activity to the water area within a designated ski zone on all bodies of water on which a ski zone has been established.

(B) On all bodies of water where no specific activity zones have been established, the activities described in division (A) of this section shall be confined to areas where the activities are not specifically restricted by this chapter and rules ~~adopted under it~~.

(C) Divisions (A) and (B) of this section do not apply to an activity described in division (A) of this section if the vessel involved in the activity is traveling at idle speed in a designated no wake zone and the activity is not being conducted in any of the following areas:

(1) Within three hundred feet of a gas dock, marina, launch ramp, or harbor entrance;

(2) Within a designated anchorage area, swim zone, boat swim zone, or boat camping area;

(3) Under a bridge or within three hundred feet of a bridge underpass;

(4) Any area designated as a no ski zone.

(D) No person shall operate or permit to be operated any vessel on the waters in this state in violation of this section.

Sec. 1547.18. (A) ~~No~~ Except as provided in division (B) of this section, no person shall ride or attempt to ride on one or more water skis, surfboard, inflatable device, or similar device being towed by a vessel engage in any form of towed watersports without wearing an adequate and effective coast guard approved type one, two, or three personal flotation device or type five wearable personal flotation device specifically designed for water skiing towed watersports, in good and serviceable condition and of appropriate size, except upon special permit issued by the state department, conservancy district, or one of the following persons or entities that manages the waterway:

(1) The political subdivision having primary jurisdiction and control of the water;

(2) The administrator of a federal agency;

(3) The director of a state agency;

(4) The board of directors of a conservancy district;

(5) Any other governing body having jurisdiction.

(B) ~~No~~ Division (A) of this section does not apply to a person shall engage engaging or attempt attempting to engage in barefoot skiing without wearing an adequate and effective coast guard approved type one, two, or three personal flotation device or type five personal flotation device

~~specifically designed for water skiing, in good and serviceable condition and of appropriate size, or a~~ if the person is wearing a wet suit specifically designed for barefoot skiing that is in good and serviceable condition and of appropriate size.

(C) No operator of a vessel shall ~~to~~ allow any person who fails to comply with division (A) or (B) of this section to engage in any form of towed watersports.

Sec. 1547.20. No person or organization shall conduct any race, regatta, or other special event upon the waters in this state without first obtaining written permission, upon application not less than thirty days prior to the time of the proposed race, regatta, or event, of the federal agency, state department, conservancy district, or political subdivision having jurisdiction and control over such waters. Any state department, conservancy district, or political subdivision may suspend its respective rules during a race, regatta, or special event. Nothing in this section shall be construed to mean that the operator of a vessel competing in a specially authorized race, regatta, or special event shall not attempt to attain high speeds on a marked racing course.

On any waters in this state over which no federal agency, state department, conservancy district, or political subdivision has jurisdiction and control, no person or organization shall conduct any race, regatta, or other special event without first obtaining written permission, upon application not less than thirty days prior to the time of the proposed race, regatta, or event, of the chief of the division of parks and watercraft. The chief may, ~~if he determines~~ after determining that the public safety will be adequately protected, grant written permission for holding such race, regatta, or special event. This section does not apply to privately owned lakes or ponds nor to canoes or rowboats.

Sec. 1547.24. No person shall operate or permit to be operated any vessel under eighteen feet in length while there is present in the vessel any person under ten years of age, not wearing a coast guard approved ~~type one, two, three, or five~~ wearable personal flotation device in good and serviceable condition of appropriate size securely attached to the person under ten years of age.

Sec. 1547.25. (A) No person shall operate or permit to be operated any vessel, other than a ~~commercial vessel or other~~ vessel exempted by rules ~~adopted under section 1547.52 of the Revised Code,~~ on the waters in this state:

(1) That is sixteen feet or greater in length without carrying aboard one ~~type one, two, or three~~ wearable personal flotation device for each person



aboard and one ~~type four~~ throwable personal flotation device;

(2) That is less than sixteen feet in length, including ~~canoes and kayaks~~ paddlecraft of any length, without carrying aboard one ~~type one, two, or three~~ wearable personal flotation device for each person aboard.

~~(B) A type five personal flotation device may be carried in lieu of a type one, two, or three personal flotation device required under division (A) of this section.~~

~~(C)~~ No person shall operate or permit to be operated any commercial vessel on the waters in this state:

(1) That is less than forty feet in length and is not carrying persons for hire without carrying aboard at least one ~~type one, two, or three~~ wearable personal flotation device for each person aboard;

(2) That is carrying persons for hire or is forty feet in length or longer and is not carrying persons for hire without carrying aboard at least one ~~type one~~ wearable personal flotation device for each person aboard; that complies with all of the following:

(a) It is designed to support the person wearing the wearable personal flotation device in the water in an upright or slightly backward position and provides support to the head so that the face of an unconscious or exhausted person is held above the water.

(b) It is capable of turning the person wearing the wearable personal flotation device, upon entering the water, to a safe flotation position.

(c) It is capable of being worn inside out.

(d) It is capable of supporting a minimum of twenty-two pounds in fresh water for forty-eight hours.

(e) It is a highly visible color.

(3) That is twenty-six feet in length or longer without carrying aboard at least one ~~type four ring life buoy~~ throwable personal flotation device in addition to the applicable requirements of divisions ~~(C)~~(B)(1) and (2) of this section.

~~(D)~~(C) Each personal flotation device carried aboard a vessel, including a commercial vessel, pursuant to this section shall be coast guard approved and in good and serviceable condition, of appropriate size for the wearer, ~~and~~ readily accessible to each person aboard the vessel at all times, and used in accordance with any requirements on its approval label or in accordance with requirements in its owner's manual if the approval label refers to such a manual.

~~(E)~~(D) A personal flotation device shall not be used in a manner that is inconsistent with any limitations or restrictions related to federal approval under 46 C.F.R. 160 or special instructions for use provided by the

manufacturer. Appropriate use shall be indicated on the label of an approved personal flotation device with one or more of the following designations:

- (1) Conditional approval;
- (2) Performance type;
- (3) Type one personal flotation device;
- (4) Type two personal flotation device;
- (5) Type three personal flotation device;
- (6) Type four personal flotation device;
- (7) Type five personal flotation device;
- (8) Throwable personal flotation device;
- (9) Wearable personal flotation device.

(E) As used in this section, "commercial vessel" means any vessel used in the carriage of any person or property for a valuable consideration whether flowing directly or indirectly from the owner, partner, or agent or any other person interested in the vessel. "Commercial vessel" does not include any vessel that is manufactured or used primarily for noncommercial use or that is leased, rented, or chartered to another for noncommercial use.

Sec. 1547.26. All watercraft, except sailboats less than sixteen feet long having a cockpit depth of less than twelve inches and except canoes, shall carry an anchor and line of sufficient weight and length to anchor the watercraft securely. The chief of the division of parks and watercraft, by rule, may exempt other types of watercraft from this section after determining that carrying such an anchor and line would constitute a hazard.

No person shall operate or permit to be operated any watercraft on the waters in this state in violation of this section.

Sec. 1547.30. (A) As used in this section and sections 1547.301, 1547.302, and 1547.304 of the Revised Code:

(1) "Vessel or outboard motor" excludes an abandoned junk vessel or outboard motor, as defined in section 1547.303 of the Revised Code, or any watercraft or outboard motor under section 4585.31 of the Revised Code.

(2) "Law enforcement agency" means any organization or unit comprised of law enforcement officers, as defined in section 2901.01 of the Revised Code.

(B)(1) The sheriff of a county, chief of police of a municipal corporation, township, township police district, or joint police district, or other chief of a law enforcement agency, within the sheriff's or chief's respective territorial jurisdiction, upon complaint of any person adversely affected, may order into storage any vessel or outboard motor that has been left on private property, other than a private dock or mooring facility or

structure, for at least seventy-two hours without the permission of the person having the right to the possession of the property. The sheriff or chief, upon complaint of the owner of a marine repair facility or place of storage, may order into storage any vessel or outboard motor that has been left at the facility or place of storage for a longer period than that agreed upon. The place of storage shall be designated by the sheriff or chief. When ordering a vessel or motor into storage under division (B)(1) of this section, a sheriff or chief, whenever possible, shall arrange for the removal of the vessel or motor by a private tow truck operator or towing company.

(2)(a) Except as provided in division (B)(2)(d) of this section, no person, without the consent of the owner or other person authorized to give consent, shall moor, anchor, or tie a vessel or outboard motor at a private dock or mooring facility or structure owned by another person if the owner has posted, in a conspicuous manner, a prohibition against the mooring, anchoring, or tying of vessels or outboard motors at the dock, facility, or structure by any person not having the consent of the owner or other person authorized to give consent.

(b) If the owner of a private dock or mooring facility or structure has posted at the dock, facility, or structure, in a conspicuous manner, conditions and regulations under which the mooring, anchoring, or tying of vessels or outboard motors is permitted at the dock, facility, or structure, no person, except as provided in division (B)(2)(d) of this section, shall moor, anchor, or tie a vessel or outboard motor at the dock, facility, or structure in violation of the posted conditions and regulations.

(c) The owner of a private dock or mooring facility or structure may order towed into storage any vessel or outboard motor found moored, anchored, or tied in violation of division (B)(2)(a) or (b) of this section, provided that the owner of the dock, facility, or structure posts on it a sign that states that the dock, facility, or structure is private, is visible from all entrances to the dock, facility, or structure, and contains all of the following information:

(i) The information specified in division (B)(2)(a) or (b) of this section, as applicable;

(ii) A notice that violators will be towed and that violators are responsible for paying the cost of the towing;

(iii) The telephone number of the person from whom a towed vessel or outboard motor may be recovered, and the address of the place to which the vessel or outboard motor will be taken and the place from which it may be recovered.

(d) Divisions (B)(2)(a) and (b) of this section do not prohibit a person

from mooring, anchoring, or tying a vessel or outboard motor at a private dock or mooring facility or structure if either of the following applies:

(i) The vessel or outboard motor is disabled due to a mechanical or structural malfunction, provided that the person immediately removes the vessel or outboard motor from the dock, facility, or structure when the malfunction is corrected or when a reasonable attempt has been made to correct it;

(ii) Weather conditions are creating an imminent threat to safe operation of the vessel or outboard motor, provided that the person immediately removes the vessel or outboard motor from the dock, facility, or structure when the weather conditions permit safe operation of the vessel or outboard motor.

(e) A person whose vessel or outboard motor is towed into storage under division (B)(2)(c) of this section either shall pay the costs of the towing of the vessel or outboard motor or shall reimburse the owner of the dock or mooring facility or structure for the costs that the owner incurs in towing the vessel or outboard motor.

(3) Subject to division (C) of this section, the owner of a vessel or motor that has been removed under division (B) of this section may recover the vessel or motor only in accordance with division (F) of this section.

(C) If the owner or operator of a vessel or outboard motor that has been ordered into storage under division (B) of this section arrives after the vessel or motor has been prepared for removal, but prior to its actual removal from the property, the owner or operator shall be given the opportunity to pay a fee of not more than one-half of the charge for the removal of vessels or motors under division (B) of this section that normally is assessed by the person who has prepared the vessel or motor for removal, in order to obtain release of the vessel or motor. Upon payment of that fee, the vessel or motor shall be released to the owner or operator, and upon its release, the owner or operator immediately shall move it so that it is not on the private property without the permission of the person having the right to possession of the property, or is not at the facility or place of storage without the permission of the owner, whichever is applicable.

(D) Each county sheriff, each chief of police of a municipal corporation, township, township police district, or joint police district, and each other chief of a law enforcement agency shall maintain a record of vessels or outboard motors that are ordered into storage under division (B)(1) of this section. The record shall include an entry for each such vessel or motor that identifies the vessel's hull identification number or serial number, if any, the vessel's or motor's make, model, and color, the location from which it was

removed, the date and time of its removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered. Any information in the record that pertains to a particular vessel or motor shall be provided to any person who, pursuant to a statement the person makes either in person or by telephone, is identified as the owner or operator of the vessel or motor and requests information pertaining to its location.

(E) Any person who registers a complaint that is the basis of a sheriff's or chief's order for the removal and storage of a vessel or outboard motor under division (B)(1) of this section shall provide the identity of the law enforcement agency with which the complaint was registered to any person who, pursuant to a statement the person makes, is identified as the owner or operator of the vessel or motor and requests information pertaining to its location.

(F)(1) The owner of a vessel or outboard motor that is ordered into storage under division (B) of this section may reclaim it upon payment of any expenses or charges incurred in its removal, in an amount not to exceed two hundred dollars, and storage, in an amount not to exceed five dollars per twenty-four-hour period, and upon presentation of proof of ownership, which may be evidenced by a certificate of title to the vessel or motor, certificate of United States coast guard documentation, or certificate of registration if the vessel or motor is not subject to titling under section 1548.01 of the Revised Code.

(2) If a vessel or outboard motor that is ordered into storage under division (B)(1) of this section remains unclaimed by the owner for thirty days, the procedures established by sections 1547.301 and 1547.302 of the Revised Code shall apply.

(3) If a vessel or outboard motor ordered into storage under division (B)(2) of this section remains unclaimed for seventy-two hours after being stored, the tow truck operator or towing company that removed the vessel or outboard motor shall provide notice of the removal and storage to the sheriff of a county, chief of police of a municipal corporation, township, township police district, or joint police district, or other chief of a law enforcement agency within whose territorial jurisdiction the vessel or outboard motor had been moored, anchored, or tied in violation of division (B)(2) of this section. The notice shall be in writing and include the vessel's hull identification number or serial number, if any, the vessel's or outboard motor's make, model, and color, the location from which it was removed, the date and time of its removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from

which it may be recovered.

Upon receipt of the notice, the sheriff or chief immediately shall cause a search to be made of the records of the division of parks and watercraft to ascertain the owner and any lienholder of the vessel or outboard motor, and, if known, shall send notice to the owner and lienholder, if any, at the owner's and lienholder's last known address by certified mail, return receipt requested, that the vessel or outboard motor will be declared a nuisance and disposed of if not claimed not later than thirty days after the date of the mailing of the notice.

If the owner or lienholder makes no claim to the vessel or outboard motor within thirty days of the date of the mailing of the notice, the sheriff or chief shall file with the clerk of courts of the county in which the place of storage is located an affidavit showing compliance with the requirements of division (F)(3) of this section, and the vessel or outboard motor shall be disposed of in accordance with section 1547.302 of the Revised Code.

(G) No person shall remove, or cause the removal of, any vessel or outboard motor from private property other than in accordance with division (B) of this section or section 1547.301 of the Revised Code.

Sec. 1547.301. The sheriff of a county, chief of police of a municipal corporation, township, township police district, or joint police district, or other chief of a law enforcement agency, within the sheriff's or chief's respective territorial jurisdiction, or a state highway patrol trooper, upon notification to the sheriff or chief of such action and of the location of the place of storage, may order into storage any vessel or outboard motor that has been left in a sunken, beached, or drifting condition for any period of time, or in a docked condition, on a public street or other property open to the public, or upon or within the right-of-way of any waterway, road, or highway, for forty-eight hours or longer without notification to the sheriff or chief of the reasons for leaving the vessel or motor in any such place or condition. The sheriff or chief shall designate the place of storage of any vessel or motor ordered removed by the sheriff or chief.

The sheriff or chief shall immediately cause a search to be made of the records of the division of parks and watercraft to ascertain the owner and any lienholder of a vessel or outboard motor ordered into storage by the sheriff or chief, and, if known, shall send notice to the owner and lienholder, if any, at the owner's or lienholder's last known address by certified mail, return receipt requested, that the vessel or motor will be declared a nuisance and disposed of if not claimed within ten days of the date of mailing of the notice. The owner or lienholder of the vessel or motor may reclaim it upon payment of any expenses or charges incurred in its removal and storage, and

presentation of proof of ownership, which may be evidenced by a certificate of title to the vessel or motor, certificate of United States coast guard documentation, or certificate of registration if the vessel or motor is not subject to titling under section 1548.01 of the Revised Code.

If the owner or lienholder makes no claim to the vessel or outboard motor within ten days of the date of mailing of the notice, and if the vessel or motor is to be disposed of at public auction as provided in section 1547.302 of the Revised Code, the sheriff or chief shall file with the clerk of courts of the county in which the place of storage is located an affidavit showing compliance with the requirements of this section. Upon presentation of the affidavit, the clerk of courts shall without charge issue a salvage certificate of title, free and clear of all liens and encumbrances, to the sheriff or chief and shall send a copy of the affidavit to the chief of the division of parks and watercraft. If the vessel or motor is to be disposed of to a marine salvage dealer or other facility as provided in section 1547.302 of the Revised Code, the sheriff or chief shall execute in triplicate an affidavit, as prescribed by the chief of the division of parks and watercraft, describing the vessel or motor and the manner in which it was disposed of, and that all requirements of this section have been complied with. The sheriff or chief shall retain the original of the affidavit for the sheriff's or chief's records and shall furnish two copies to the marine salvage dealer or other facility. Upon presentation of a copy of the affidavit by the marine salvage dealer or other facility, the clerk of courts shall issue to such owner a salvage certificate of title, free and clear of all liens and encumbrances.

Whenever the marine salvage dealer or other facility receives an affidavit for the disposal of a vessel or outboard motor as provided in this section, such owner shall not be required to obtain an Ohio certificate of title to the vessel or motor in the owner's own name if the vessel or motor is dismantled or destroyed and both copies of the affidavit are delivered to the clerk of courts. Upon receipt of such an affidavit, the clerk of courts shall send one copy of it to the chief of the division of parks and watercraft.

Sec. 1547.303. (A) As used in this section and section 1547.304 of the Revised Code:

(1) "Abandoned junk vessel or outboard motor" means any vessel or outboard motor meeting all of the following requirements:

(a) It has been left on private property for at least seventy-two hours without the permission of the person having the right to the possession of the property; left in a sunken, beached, or drifting condition for any period of time; or left in a docked condition, on a public street or other property open to the public, or upon or within the right-of-way of any waterway,

road, or highway, for forty-eight hours or longer without notification to the sheriff of the county, the chief of police of the municipal corporation, township, township police district, or joint police district, or other chief of a law enforcement agency, having territorial jurisdiction with respect to the location of the vessel or motor, of the reasons for leaving the vessel or motor in any such place or condition;

(b) It is three years old, or older;

(c) It is extensively damaged, such damage including but not limited to any of the following: missing deck, hull, transom, gunwales, motor, or outdrive;

(d) It is apparently inoperable;

(e) It has a fair market value of two hundred dollars or less.

(2) "Law enforcement agency" means any organization or unit comprised of law enforcement officers, as defined in section 2901.01 of the Revised Code.

(B) The sheriff of a county, chief of police of a municipal corporation, township, township police district, or joint police district, or other chief of a law enforcement agency, within the sheriff's or chief's respective territorial jurisdiction, or a state highway patrol trooper, upon notification to the sheriff or chief of such action, shall order any abandoned junk vessel or outboard motor to be photographed by a law enforcement officer. The officer shall record the make of vessel or motor, the hull identification number or serial number when available, and shall also detail the damage or missing equipment to substantiate the value of two hundred dollars or less. The sheriff or chief shall thereupon immediately dispose of the abandoned junk vessel or outboard motor to a marine salvage dealer or other facility owned, operated, or under contract to the state, the county, township, or municipal corporation for the destruction of such vessels or motors. The records and photographs relating to the abandoned junk vessel or outboard motor shall be retained by the law enforcement agency ordering the disposition of the vessel or motor for a period of at least two years. The law enforcement agency shall execute in quadruplicate an affidavit, as prescribed by the chief of the division of parks and watercraft, describing the vessel or motor and the manner in which it was disposed of, and that all requirements of this section have been complied with, and shall sign and file the same with the clerk of courts of the county in which the vessel or motor was abandoned. The clerk of courts shall retain the original of the affidavit for the clerk's files, shall furnish one copy thereof to the chief of the division of parks and watercraft, one copy to the marine salvage dealer or other facility handling the disposal of the vessel or motor, and one copy to the law



enforcement agency ordering the disposal, who shall file such copy with the records and photographs relating to the disposal. Any moneys arising from the disposal of an abandoned junk vessel or outboard motor shall be credited to the general revenue fund, or to the general fund of the county, township, municipal corporation, or other political subdivision, as appropriate.

Notwithstanding section 1547.301 of the Revised Code, any vessel or outboard motor meeting the requirements of divisions (A)(1)(c) to (e) of this section which has remained unclaimed by the owner or lienholder for a period of ten days or longer following notification as provided in section 1547.301 of the Revised Code may be disposed of as provided in this section.

Sec. 1547.31. (A) Every powercraft operated on the waters in this state shall be equipped at all times with a muffler or a muffler system that is in good working order, in constant operation, and effectively installed to prevent excessive or unusual noise.

(B)(1) No person shall operate or give permission for the operation of a powercraft on the waters in this state in such a manner as to exceed a noise level of ninety decibels on the "A" scale when subjected to a stationary sound level test as prescribed by SAE J2005.

(2) No person shall operate or give permission for the operation of a powercraft on the waters in this state in such a manner as to exceed a noise level of seventy-five decibels on the "A" scale measured as specified by SAE J1970. Measurement of a noise level of not more than seventy-five decibels on the "A" scale of a powercraft in operation does not preclude the conducting of a stationary sound level test as prescribed by ~~SAE J2005~~ SAE J2005.

(C) No person shall operate or give permission for the operation of a powercraft on the waters in this state that is equipped with an altered muffler or muffler cutout, or operate or give permission for the operation of a powercraft on the waters in this state in any manner that bypasses or otherwise reduces or eliminates the effectiveness of any muffler or muffler system installed in accordance with this section, unless the applicable mechanism has been permanently disconnected or made inoperable.

(D) No person shall remove, alter, or otherwise modify in any way a muffler or muffler system in a manner that will prevent it from being operated in accordance with this section.

(E) No person shall manufacture, sell, or offer for sale a powercraft that is not equipped with a muffler or muffler system that prevents noise levels in excess of those established in division (B)(1) of this section.

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

(1) A powercraft that is designed, manufactured, and sold for the sole purpose of competing in racing events. The exception established under division (F)(1) of this section shall be documented in each sale agreement and shall be acknowledged formally by the signatures of the buyer and the seller. The buyer and the seller shall maintain copies of the sale agreement. A copy of the sale agreement shall be kept aboard the powercraft when it is operated. A powercraft to which the exception established under division (F)(1) of this section applies shall be operated on the waters in this state only in accordance with division (F)(2) of this section.

(2) A powercraft that is actually participating in a sanctioned racing event or in tune-up periods for a sanctioned racing event on the waters in this state and that is being operated in accordance with division (F)(2) of this section. For the purposes of division (F)(2) of this section, a sanctioned racing event is a racing event that is conducted in accordance with section 1547.20 of the Revised Code or that is approved by the United States coast guard. The operator of a powercraft that is operated on the waters in this state for the purpose of a sanctioned racing event shall comply with that section and requirements established under it or with requirements established by the coast guard, as appropriate. Failure to comply subjects the operator to this section.

(3) A powercraft that is being operated on the waters in this state by or for a boat or engine manufacturer for the purpose of testing, development, or both and that complies with division (F)(3) of this section. The operator of such a powercraft shall have aboard at all times and shall produce on demand of a law enforcement officer a current, valid letter issued by the chief of the division of parks and watercraft in accordance with rules adopted under division (I)(1) of this section. Failure to produce the letter subjects the operator to this section.

(G) A law enforcement officer who is trained in accordance with rules adopted under division (I)(2) of this section and who has reason to believe that a powercraft is not in compliance with the noise levels established in this section may direct the operator of the powercraft to submit it to an on-site test to measure the level of the noise emitted by the powercraft. The operator shall comply with that direction. The officer may remain aboard the powercraft during the test at the officer's discretion.

If the level of the noise emitted by the powercraft exceeds the noise levels established in this section, the officer may direct the operator to take immediate and reasonable measures to correct the violation, including returning the powercraft to a mooring and keeping it at the mooring until the violation is corrected or ceases.

(H) A law enforcement officer who conducts powercraft noise level tests pursuant to this section shall be trained to do so in accordance with rules adopted under division (I)(2) of this section.

(I) In accordance with Chapter 119. of the Revised Code, the chief shall adopt rules establishing both of the following:

(1) Requirements and procedures for the issuance of letters under division (F)(3) of this section. The rules shall require, without limitation, that each such letter adequately identify the powercraft concerning which the letter is issued and specify the purposes for which the powercraft is being operated.

(2) Requirements and procedures for the training of law enforcement officers who conduct powercraft noise level tests pursuant to this section. The rules shall require the training to include, without limitation, the selection of a site where noise level is measured and the calibration and use of noise measurement equipment.

Sec. 1547.36. The operation by a nonresident of a vessel upon the waters in this state, or the operation on the waters in this state of a vessel owned by a nonresident if operated with ~~his~~ nonresident's consent, express or implied, shall be deemed equivalent to an appointment by the nonresident of the secretary of state to be ~~his~~ nonresident's true and lawful attorney, upon whom may be served the summons in any action against ~~him~~ the nonresident, growing out of any accident or collision in which the nonresident may be involved while operating a vessel on the waters in this state, or in which the vessel may be involved while being so operated on the waters in this state. The operation shall be deemed a signification of ~~his~~ the nonresident's agreement that any summons against ~~him~~ the nonresident which is so served shall have the same legal force and validity as if served on ~~him~~ the nonresident personally within this state. Service of summons shall be made by leaving a copy thereof with the secretary of state, or ~~his~~ the secretary of state's deputy, who shall keep a record of each process and the day and hour of service and service shall be sufficient services upon the nonresident, if notice of the service and a copy of the summons are forthwith either served upon the defendant personally by the sheriff or constable of the county in which ~~he~~ the defendant resides or sent by certified mail by the plaintiff or ~~his~~ the plaintiff's attorney to the defendant. If personal service of the notice and copy of summons is had upon the defendant, the officer making the service shall so certify in ~~his~~ the officer's return which shall be filed with the court having jurisdiction of the cause. If service is made by certified mail then the plaintiff or ~~his~~ the plaintiff's attorney shall make an affidavit showing that ~~he has made~~ service of the

notice and summons upon the defendant was made by certified mail and the affiant shall attach thereto a true copy of the summons and notice so served and the return receipt of the defendant and shall file the affidavit and attached papers with the court having jurisdiction of the cause. The court in which the action is pending may order such extension of time as may be necessary to afford the defendant reasonable opportunity to defend the action.

The death of a nonresident shall not operate to revoke the appointment by ~~him~~ the nonresident of the secretary of state as ~~his~~ the nonresident's true and lawful attorney upon whom may be served the summons in an action against ~~him~~ the nonresident growing out of ~~any~~ the accident or collision; and in the event of ~~his~~ the nonresident's death, any action growing out of such accident or collision may be commenced or prosecuted against ~~his~~ the nonresident's executor or administrator duly appointed by the state, territory, or districts of the United States or foreign country in which the nonresident resided at the time of ~~his~~ death, and service of the summons shall be made upon the secretary of state, and personal service of the notice and the copy of the summons be had upon ~~his~~ the nonresident's executor or administrator, as the case may be, in like manner, with the same force and effect as service upon the nonresident during ~~his~~ the nonresident's lifetime.

Any action or proceeding pending in any court of this state, in which the court has obtained jurisdiction of the nonresident pursuant to sections ~~1547.01~~ 1547.02 to 1547.36 of the Revised Code, shall not abate by reason of the death of the nonresident, but ~~his~~ the nonresident's executor or administrator duly appointed in the state, territory, or district of the United States or foreign country in which ~~he~~ the nonresident resided at the time of ~~his~~ death, upon the application of the plaintiff in the action and upon such notice as the court may prescribe, shall be brought in and substituted in the place of the decedent and the action or proceeding shall continue.

The court shall include as taxable costs, in addition to other legal costs, against the plaintiff in case the defendant prevails in the action, the actual traveling expenses of the defendant from ~~his~~ the defendant's residence to the place of trial and return, not to exceed the sum of one hundred dollars.

This section applies to actions commenced in all courts of this state having civil jurisdiction.

Sec. 1547.38. No person who lets vessels for hire, or the agent or employee thereof, shall rent, lease, charter, or otherwise permit the use of a vessel, unless the person provides the vessel with the equipment required under sections 1547.25, 1547.251, 1547.26, 1547.27, 1547.28, 1547.29, and 1547.31 of the Revised Code and rules ~~adopted under this chapter~~ regarding

the equipment of vessels, and complies with the requirements of sections 1547.24, 1547.40, 1547.53, 1547.57, and either 1547.54 or 1547.542 of the Revised Code and rules ~~adopted under this chapter~~ to implement and enforce those sections.

Sec. 1547.41. (A)(1) No person shall operate or permit the operation of a personal watercraft unless each person on the watercraft is wearing a ~~type one, two, three, or five~~ coast guard approved wearable personal flotation device used in compliance with manufacturer labeling.

(2) A person operating a personal watercraft that is equipped by the manufacturer with a lanyard type engine cutoff switch shall attach the lanyard to the person, the person's clothing, or the personal flotation device as appropriate for the specific watercraft.

(3) No person shall operate a personal watercraft at any time between sunset and sunrise.

(4) No person who owns a personal watercraft or who has charge over or control of a personal watercraft shall authorize or knowingly permit the personal watercraft to be operated in violation of this chapter.

(B) This section does not apply to a person who is participating in a regatta, race, marine parade, tournament, or exhibition that is operated in accordance with section 1547.20 of the Revised Code or that is coast guard approved.

Sec. 1547.51. (A) A natural resources officer shall conduct educational programs in vessel safety, sanitation, and operation and in other related subjects that the director of natural resources, in consultation with the chief of the division of parks and watercraft, considers appropriate or necessary.

(B) Except as authorized by division (C) of this section, no natural resources officer or other law enforcement officer as described in section 1547.63 of the Revised Code shall stop or board any vessel solely for the purpose of conducting a safety inspection of the vessel unless the owner or operator voluntarily requests the officer to conduct a safety inspection of the vessel.

(C) A natural resources officer or other law enforcement officer as described in section 1547.63 of the Revised Code may stop, board, and conduct a safety inspection of any vessel if either of the following applies:

(1) The officer has a reasonable suspicion that the vessel, the vessel's equipment, or the vessel's operator is in violation of this chapter or rules or is otherwise engaged in a violation of a law of this state or a local ordinance, resolution, rule, or regulation adopted in compliance with the provisions of Chapter 1547. of the Revised Code within the territorial jurisdiction of the officer;

(2) The officer is conducting a vessel safety inspection in the course of an authorized checkpoint operation in accordance with rules.

Sec. 1547.53. Every watercraft operated on the waters in this state shall be numbered by this state in accordance with federal law or a federally approved numbering system of another state. A watercraft numbered by this state shall display the number on the watercraft as provided in section 1547.57 of the Revised Code. Watercraft exempt from numbering by the state are:

(A) Those currently documented by the United States coast guard or its successor;

(B) Those whose principal use is not on the waters in this state and that have not been used within this state for more than sixty days and have a valid number assigned under a federally approved numbering system by another state if the number is displayed in accordance with the requirements of that system and the certificate of number is available for inspection whenever the watercraft is on waters in this state;

(C) Those from a country other than the United States, temporarily using the waters in this state;

(D) Those whose owner is the United States, a state, or a political subdivision of a state, that fit either of the following descriptions, and that are clearly identifiable as such:

(1) A powercraft that principally is used for governmental purposes other than recreational purposes;

(2) A watercraft other than a powercraft.

(E) A ship's lifeboat. As used in this division, "lifeboat" means a watercraft that is held aboard another vessel and used exclusively for emergency purposes.

(F) Those that have been exempted from numbering by the chief of the division of parks and watercraft after the chief has found that the numbering of the watercraft will not materially aid in their identification and, if an agency of the United States has a numbering system applicable to the watercraft, after the chief has further found that they also would be exempt from numbering by the United States government if they were subject to the federal law;

(G) Those temporarily using the waters in this state under a waiver issued by the chief to an organization sponsoring a race, regatta, or special event. The chief may issue a waiver upon application by the sponsoring organization at least fifteen days before the date of the proposed race, regatta, or special event. The waiver shall be effective for ten days including the day or days of the proposed race, regatta, or special event. Such a waiver

does not obviate the need for compliance with section 1547.20 of the Revised Code.

(H) Canoes, rowboats, and inflatable watercraft that are registered under section 1547.54 of the Revised Code and that an owner, in accordance with this division, chooses not to have numbered under this section. An owner of a canoe, rowboat, or inflatable watercraft may choose to do either of the following:

(1) Have it numbered under this section, pay a lesser registration fee under division (A)(2)(a) of section 1547.54 of the Revised Code, and obtain square tags under division (A) of section 1547.57 of the Revised Code;

(2) Not have it numbered under this section, pay a higher registration fee under division (A)(2)(b) of section 1547.54 of the Revised Code, and obtain a rectangular tag under division (C) of section 1547.57 of the Revised Code.

Sec. 1547.531. (A)(1) Except as provided in division (A)(2) or (B) of this section, no person shall operate or give permission for the operation of any watercraft on the waters in this state unless the watercraft is registered in the name of the current owner in accordance with section 1547.54 of the Revised Code, and the registration is valid and in effect.

(2) On and after January 1, 1999, if a watercraft that is required to be issued a certificate of title under Chapter 1548. of the Revised Code is transferred to a new owner, it need not be registered under section 1547.54 of the Revised Code for ~~forty-five~~ sixty days following the date of the transfer, provided that the new owner purchases a temporary watercraft registration under division (A) of this section or holds a bill of sale from a watercraft dealer.

For the purposes of division (A)(2) of this section, a temporary watercraft registration or a bill of sale from a watercraft dealer shall contain at least all of the following information:

- (a) The hull identification number or serial number of the watercraft;
- (b) The make of the watercraft;
- (c) The length of the watercraft;
- (d) The type of propulsion, if any;
- (e) The state in which the watercraft principally is operated;
- (f) The name of the owner;
- (g) The address of the owner, including the zip code;
- (h) The signature of the owner;
- (i) The date of purchase;

(j) A notice to the owner that the temporary watercraft registration expires ~~forty-five~~ sixty days after the date of purchase of the watercraft or

that the watercraft cannot be operated on the waters in this state solely under the bill of sale beginning ~~forty-five~~ sixty days after the date of purchase of the watercraft, as applicable.

(3) A person may purchase a temporary watercraft registration from the chief of the division of parks and watercraft or from an authorized agent designated under section 1547.54 of the Revised Code. The chief shall furnish forms for temporary watercraft registrations to authorized agents. In addition to completing the registration form with the information specified in divisions (A)(2)(a) to (i) of this section, the person shall pay one of the applicable fees required under divisions (A)(2)(a) to (g) of section 1547.54 of the Revised Code as provided in that section.

Moneys received for the payment of temporary watercraft registrations shall be deposited to the credit of the waterways safety fund created in section 1547.75 of the Revised Code.

(4) In addition to the applicable fee required under division (A)(3) of this section, the chief or an authorized agent shall charge an additional writing fee of three dollars for a temporary watercraft registration that the chief or the authorized agent issues. When the temporary watercraft registration is issued by an authorized agent, the agent may retain the additional writing fee. When the temporary watercraft registration is issued by the chief, the additional writing fee shall be deposited to the credit of the waterways safety fund.

(5) A person who purchases a temporary watercraft registration for a watercraft and who subsequently applies for a registration certificate under section 1547.54 of the Revised Code need not pay the fee required under division (A)(2) of that section for the initial registration certificate issued for that watercraft, provided that at the time of application for the registration certificate, the person furnishes proof of payment for the temporary watercraft registration.

(6) A person who purchases a temporary watercraft registration, who subsequently applies for a registration certificate under section 1547.54 of the Revised Code, and who is exempt from payment for the registration certificate under division (P) of that section may apply to the chief for a refund of the amount paid for the temporary watercraft registration at the time that the person applies for a registration certificate. The chief shall refund that amount upon issuance to the person of a registration certificate.

(7) All records of the division of parks and watercraft made or maintained for the purposes of divisions (A)(2) to (8) of this section are public records. The records shall be available for inspection at reasonable hours and in a manner that is compatible with normal operations of the



division.

(8) Pursuant to division ~~(A)(1)(C)(2)~~ of section ~~1547.52~~ 1546.04 of the Revised Code, the chief may adopt rules establishing all of the following:

(a) Record-keeping requirements governing the issuance of temporary watercraft registrations and the use of bills of sale from watercraft dealers for the purposes of division (A)(2) of this section;

(b) Procedures and requirements for the refund of fees under division (A)(6) of this section;

(c) Any other procedures and requirements necessary for the administration and enforcement of divisions (A)(2) to (8) of this section.

(B) All of the following watercraft are exempt from registration:

(1) Those that are exempt from numbering by the state under divisions (B) to (G) of section 1547.53 of the Revised Code;

(2) Those that have been issued a commercial documentation by the United States coast guard or its successor and are used exclusively for commercial purposes;

(3) Those that have been documented by the United States coast guard or its successor as temporarily transitting, whose principal use is not on the waters in this state, and that have not been used within this state for more than sixty days.

(C) No person shall operate a watercraft documented by the United States coast guard or its successor unless the certificate of documentation is valid, is on the watercraft for which it has been issued, and is available for inspection whenever the watercraft is in operation. In accordance with 46 C.F.R. part 67, as amended, the watercraft shall display the official number, the vessel name, and the home port listed on the certificate of documentation.

(D)(1) For the purposes of this section and section 1547.53 of the Revised Code, a watercraft is principally using the waters in this state if any of the following applies:

(a) The owner resides in this state and declares that the watercraft principally is using the waters in this state.

(b) The owner resides in another state, but declares that the watercraft principally is using the waters in this state.

(c) The watercraft is registered in another state or documented by the United States coast guard and is used within this state for more than sixty days regardless of whether it has been assigned a seasonal or permanent mooring at any public or private docking facility in this state.

(2) Notwithstanding division (D)(1)(c) of this section, a person on active duty in the armed forces of the United States may register a watercraft in the

person's state of permanent residence in lieu of registering it in this state regardless of the number of days that the watercraft is used in this state.

Sec. 1547.532. (A) All of the following are exempt from registration under this chapter:

- (1) Sailboards;
- (2) Kiteboards;
- (3) Paddleboards;
- (4) Belly boats or float tubes.

(B) As used in this section:

(1) "Belly boat" or "float tube" means a an inflatable vessel ~~that is inflatable, with a built-in seat or harness that is~~ propelled solely by human muscular effort without using an oar, paddle, or pole, and designed to accommodate a single individual as an operator in such a manner that the operator remains partially submerged in the water.

(2) "Kiteboard" means a recreational vessel that is inherently buoyant, has no cockpit, and is operated by an individual who ~~is standing on the vessel while using~~ utilizes control lines while tethered to a kite as ~~that provides~~ a means of propulsion and lift.

(3) "Paddleboard" means a long, narrow, somewhat rounded, inherently buoyant recreational vessel that is ~~inherently buoyant~~ constructed of a flat, or nearly flat, rigid material, is propelled by human muscular effort using a pole or single- or double-bladed paddle, and is operated by an individual who is kneeling, standing, or lying on the vessel.

(4) "Sailboard" means a long, narrow, somewhat rounded recreational vessel that is inherently buoyant, has no cockpit, is constructed of a flat, or nearly flat, rigid material, has a single sail mounted on a mast that is connected to the vessel by a free-rotating, flexible joint, and is operated by an individual who is standing on the vessel.

Sec. 1547.54. (A)(1) Except as otherwise provided in section 1547.542 of the Revised Code, the owner of every watercraft requiring registration under this chapter shall file an application for a triennial registration certificate with the chief of the division of parks and watercraft on forms that shall be provided by the chief or by an electronic means approved by the chief. The application shall be signed by the following:

(a) If the watercraft is owned by two persons under joint ownership with right of survivorship established under section 2131.12 of the Revised Code, by both of those persons as owners of the watercraft. The signatures may be done by electronic signature if the owners themselves are renewing the registration and there are no changes in the registration information since the issuance of the immediately preceding registration certificate. In all other

instances, the signatures shall be done manually.

(b) If the watercraft is owned by a minor, by the minor and a parent or legal guardian. The signatures may be done by electronic signature if the parent or legal guardian and the minor themselves are renewing the registration and there are no changes in the registration information since the issuance of the immediately preceding registration certificate. In all other instances, the signatures shall be done manually.

(c) In all other cases, by the owner of the watercraft. The signature may be done by electronic signature if the owner is renewing the registration personally and there are no changes in the registration information since the issuance of the immediately preceding registration certificate. In all other instances, the signatures shall be done manually.

(2) An application for a triennial registration of a watercraft filed under division (A)(1) of this section shall be accompanied by the following fee:

(a) For canoes, rowboats, and inflatable watercraft that are numbered under section 1547.53 of the Revised Code, twelve dollars;

(b) For canoes, row boats, and inflatable watercraft that are not numbered under section 1547.53 of the Revised Code, seventeen dollars;

(c) For class A watercraft, including motorized canoes, thirty dollars;

(d) For class 1 watercraft, forty-five dollars;

(e) For class 2 watercraft, sixty dollars;

(f) For class 3 watercraft, seventy-five dollars;

(g) For class 4 watercraft, ninety dollars.

(3) For the purpose of registration, any watercraft operated by means of power, sail, or any other mechanical or electrical means of propulsion, except motorized canoes, shall be registered by length as prescribed in this section.

(4) If an application for registration is filed by two persons as owners under division (A)(1)(a) of this section, the person who is listed first on the title shall serve as and perform the duties of the "owner" and shall be considered the person "in whose name the watercraft is registered" for purposes of divisions (B) to (R) of this section and for purposes of all other sections in this chapter.

(B) All registration certificates issued under this section are valid for three years and are renewable on a triennial basis unless sooner terminated or discontinued in accordance with this chapter. The renewal date shall be printed on the registration certificate. A registration certificate may be renewed by the owner in the manner prescribed by the chief. All fees shall be charged according to a proration of the time remaining in the registration cycle to the nearest year.

(C) In addition to the fees set forth in this section, the chief, or any authorized agent, shall charge an additional writing fee of three dollars for any registration certificate the chief or authorized agent issues. When the registration certificate is issued by an authorized agent, the additional writing fee of three dollars shall be retained by the issuing agent. When the registration certificate is issued by the chief, the additional writing fee of three dollars shall be deposited to the credit of the waterways safety fund established in section 1547.75 of the Revised Code.

(D) In addition to the fees established in this section, watercraft that are not powercraft shall be charged a waterways conservation assessment fee of five dollars. The fee shall be collected at the time of the issuance of a triennial watercraft registration under division (A)(2) of this section and deposited in the state treasury and credited to a distinct account in the waterways safety fund created in section 1547.75 of the Revised Code.

(E)(1) Upon receipt of the application in approved form, the chief shall enter the same upon the records of the office of the division of parks and watercraft, assign a number to the watercraft if a number is required under section 1547.53 of the Revised Code, and issue to the applicant a registration certificate. If a number is assigned by the chief, it shall be set forth on the certificate. The registration certificate shall be on the watercraft for which it is issued and available at all times for inspection whenever the watercraft is in operation, except that livery operators may retain the registration certificate at the livery where it shall remain available for inspection at all times and except as otherwise provided in division (E)(2) of this section.

(2) A person who is operating on the waters of this state a canoe, rowboat, or inflatable watercraft that has not been numbered under section 1547.53 of the Revised Code and who is stopped by a law enforcement officer in the enforcement of this chapter or rules ~~adopted under it~~ shall present to the officer, not later than seventy-two hours after being stopped, a registration certificate. The registration certificate shall have been obtained under this section for the canoe, rowboat, or inflatable watercraft prior to the time that it was stopped. Failure of the person to present the registration certificate within seventy-two hours constitutes prima-facie evidence of a violation of this section.

(F) No person shall issue or be issued a registration certificate for a watercraft that is required to be issued a certificate of title under Chapter 1548. of the Revised Code except upon presentation of a certificate of title for the watercraft as provided in that chapter, proof of current documentation by the United States coast guard, a renewal registration form

provided by the division of parks and watercraft, or a certificate of registration issued under this section that has expired if there is no change in the ownership or description of the watercraft.

(G) Whenever the ownership of a watercraft changes, a new application form together with the prescribed fee shall be filed with the chief or the chief's agent and a new registration certificate shall be issued. The application shall be signed manually by the person or persons specified in divisions (A)(1)(a) to (c) of this section and shall be accompanied by a two-dollar transfer fee. Any remaining time on the registration shall be transferred. An authorized agent of the chief shall charge an additional writing fee of three dollars, which shall be retained by the issuing agent. If the certificate is issued by the chief, an additional writing fee of three dollars for each certificate issued shall be collected and deposited to the credit of the waterways safety fund.

(H) If an agency of the United States has in force an overall system of identification numbering for watercraft or certain types of watercraft within the United States, the numbering system employed by the division shall be in conformity with that system.

(I)(1) The chief may assign any registration certificates to any authorized agent for the assignment of the registration certificates. If a person accepts that authorization, the person may be assigned a block of numbers and certificates that upon assignment, in conformity with this chapter and Chapter 1548. of the Revised Code and with rules ~~of the division~~, shall be valid as if assigned directly by the division. Any person so designated as an agent by the chief shall post with the division security as may be required by the director of natural resources. The chief may issue an order temporarily or permanently restricting or suspending an agent's authorization without a hearing if the chief finds that the agent has violated this chapter or Chapter 1548. of the Revised Code, rules ~~adopted under them~~, or any agreements prescribed by the chief.

(2) A clerk of the court of common pleas may apply for designation as an authorized agent of the chief. The division shall accept the clerk's bond that is required under section 2303.02 of the Revised Code for any security that is required for agents under this division, provided that the bond includes a rider or other provision specifically covering the clerk's duties as an authorized agent of the chief.

(J) All records of the division made or kept pursuant to this section shall be public records. Those records shall be available for inspection at reasonable hours and in a manner compatible with normal operations of the division.

(K) The owner shall furnish the division notice within fifteen days of the following:

(1) The transfer, other than through the creation of a security interest in any watercraft, of all or any part of the owner's interest or, if the watercraft is owned by two persons under joint ownership with right of survivorship established under section 2131.12 of the Revised Code, of all or any part of the joint interest of either of the two persons. The transfer shall not terminate the registration certificate.

(2) Any change in the address appearing on the certificate. As a part of the notification, the owner shall furnish the chief with the owner's new address.

(3) The destruction or abandonment of the watercraft.

(L) The chief may issue duplicate registration certificates or duplicate tags to owners of currently registered watercraft, the fee for which shall be four dollars.

(M) If the chief finds that a registration certificate previously issued to an owner is in error to a degree that would impair its basic purpose and use, the chief may issue a corrected certificate to the owner without charge.

(N) No authorized agent shall issue and no person shall receive or accept from an authorized agent a registration certificate assigned to the authorized agent under division (I) of this section unless the exact month, day, and year of issue are plainly written on the certificate by the agent. Certificates issued with incorrect dates of issue are void from the time they are issued.

(O) The chief, in accordance with Chapter 119. of the Revised Code, shall adopt rules governing the renewal of watercraft registrations by electronic means.

(P) As used in this section:

(1) "Disabled veteran" means a person who is included in either of the following categories:

(a) Because of a service-connected disability, has been or is awarded funds for the purchase of a motor vehicle under the "Disabled Veterans' and Servicemen's Automobile Assistance Act of 1970," 84 Stat. 1998, 38 U.S.C. 1901, and amendments thereto;

(b) Has a service-connected disability rated at one hundred per cent by the veterans administration.

(2) "Prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the military forces of the United States who was captured, separated, and incarcerated by an enemy of the United States at any time, and any regularly appointed, enrolled, or enlisted member of the

military forces of Great Britain, France, Australia, Belgium, Brazil, Canada, China, Denmark, Greece, the Netherlands, New Zealand, Norway, Poland, South Africa, or the republics formerly associated with the Union of Soviet Socialist Republics or Yugoslavia who was a citizen of the United States at the time of the appointment, enrollment, or enlistment, and was captured, separated, and incarcerated by an enemy of this country during World War II.

(Q) Any disabled veteran, congressional medal of honor awardee, or prisoner of war may apply to the chief for a certificate of registration, or for a renewal of the certificate of registration, without the payment of any fee required by this section. The application for a certificate of registration shall be accompanied by evidence of disability or by documentary evidence in support of a congressional medal of honor that the chief requires by rule. The application for a certificate of registration by any person who has been a prisoner of war shall be accompanied by written evidence in the form of a record of separation, a letter from one of the armed forces of a country listed in division (P)(2) of this section, or other evidence that the chief may require by rule, that the person was honorably discharged or is currently residing in this state on active duty with one of the branches of the armed forces of the United States, or was a prisoner of war and was honorably discharged or received an equivalent discharge or release from one of the armed forces of a country listed in division (P)(2) of this section.

(R) Annually by the fifteenth day of January, the director of natural resources shall determine the amount of fees that would have been collected in the prior calendar year for each certificate of registration issued or renewed pursuant to division (Q) of this section and shall certify the total amount of foregone revenue to the director of budget and management for reimbursement. The director of budget and management shall transfer the amount certified from the general revenue fund to the waterways safety fund.

Sec. 1547.541. The owner of a watercraft that is more than twenty-five years old, is essentially as originally constructed, and is owned primarily as a collector's item and for participation in club activities, exhibitions, tours, parades, and similar uses, but is not used for general recreation may apply to the chief of the division of parks and watercraft for ~~an~~ a historic watercraft identification plate. The chief, by rule, may establish additional criteria for the registration of historic watercraft that the chief considers necessary.

The chief shall prescribe the form of application and shall issue ~~an~~ a historic watercraft identification plate, which shall be securely affixed to the watercraft. The plate shall bear no date, but shall bear the inscription

"historic watercraft." A registration number assigned by the chief shall be shown on the plate. The plate is valid without renewal as long as the watercraft exists and ownership does not change. The fee for the plate is twenty-five dollars.

Whenever the ownership of ~~an~~ a historic watercraft changes, an application for transfer of registration, together with a fee of ten dollars, shall be filed with the division of parks and watercraft, and a new certificate of registration shall be issued.

The historic watercraft identification plate shall be shown on the watercraft in the same manner as a number required under sections 1547.53 and 1547.57 of the Revised Code.

If the watercraft is to be used for general recreation, it also shall be registered as required by section 1547.54 of the Revised Code.

Sec. 1547.542. (A) Any person or organization owning any number of canoes, rowboats, inflatable watercraft, or sailboats for the purpose of rental to the public may apply with the chief of the division of parks and watercraft for and receive an annual certificate of livery registration. No watercraft shall be rented to the public from a livery or other place of business in this state unless it first has been numbered and registered in accordance with this section or section 1547.54 of the Revised Code. Certificates of livery registration shall be issued by an authorized agent who is selected by the chief from among those designated under section 1547.54 of the Revised Code. The certificate shall display all of the following:

- (1) The name of the owner of the livery;
- (2) The date of issuance;
- (3) The date of expiration;
- (4) The number of watercraft registered;
- (5) The fee paid;
- (6) An authorized facsimile of the signature of the chief provided by the authorized agent who is selected to issue the certificate;
- (7) The signature of the livery owner;
- (8) The livery watercraft registration number assigned to the livery owner.

The owner of the livery shall be issued a tag for each watercraft that has been registered in accordance with this section. The tag shall be affixed to each such watercraft in accordance with this section prior to the watercraft's being rented to the public. The chief shall prescribe the content and form of the tag in rules ~~adopted under section 1547.52 of the Revised Code.~~

The owner of a livery shall obtain an amended certificate of livery registration from the chief whenever the composition of the fleet changes.



(B) Not later than March 15, 2015, the owner of a livery shall identify each watercraft in the fleet for which a certificate of registration has been issued under this section in one of the following ways:

(1) By displaying the livery watercraft registration number assigned to the livery owner on the forward half of both sides of the watercraft in block characters that are of a single color that contrasts with the color of the hull and are at least three inches in height. The livery watercraft registration number shall be displayed in such a manner that the number is visible under normal operating conditions. In addition, the tag that has been issued to the watercraft under this section shall be placed not more than six inches from the livery watercraft registration number on the port side of the watercraft.

(2) By displaying the livery name on the rear half of the watercraft in such a manner that it is clearly visible under normal operating conditions. If there is insufficient space or it is impractical to display the livery name on the sides of the watercraft, the livery name may be displayed on the rear half of the watercraft's deck, provided that the display of the name does not interfere with the placement of the tag that has been issued to the watercraft. In addition, the tag shall be placed in one of the following locations:

(a) In the upper right corner of the transom so that the tag does not interfere with the legibility of the hull identification number of the watercraft;

(b) Six inches from the stern on the outside of the watercraft below the port side gunwale;

(c) On the inside of the watercraft on the upper portion of the starboard side gunwale so that the tag is visible from the port side of the watercraft;

(d) On a deck on the rear half of the watercraft.

For purposes of division (B) of this section, each watercraft in a livery fleet shall be identified in a uniform and consistent manner.

(C) The fee for each watercraft registered under this section shall be an annual registration fee. The fee shall be one-third of the triennial registration fees prescribed in section 1547.54 of the Revised Code. However, if the size of the fleet does not increase, the fee for an amended certificate of livery registration shall be the fee prescribed for issuing a duplicate registration certificate under section 1547.54 of the Revised Code, and the chief shall not refund to the livery owner all or any portion of an annual registration fee applicable to a watercraft transferred or abandoned by the livery owner. If the size of the fleet increases, the livery owner shall be required to pay the applicable annual registration fee for each watercraft registered under an amended certificate of livery registration that is in excess of the number of watercraft contained in the annual certificate of livery registration.

In addition to the fees established in this section, watercraft that are not powercraft shall be charged a waterways conservation assessment fee. The fee shall be collected at the time of the issuance of an annual livery registration under this section and shall be one dollar and fifty cents for each watercraft included in the registration. The fee shall be deposited in the state treasury and credited to a distinct account in the waterways safety fund created in section 1547.75 of the Revised Code.

(D) The certificate of livery registration, rental agreements, and required safety equipment are subject to inspection at any time at the livery's place of business by any authorized representative of the division of parks and watercraft or any law enforcement officer in accordance with section 1547.63 of the Revised Code.

(E) Except as provided in this section, all watercraft registered under this section are subject to this chapter and Chapter 1548. of the Revised Code.

(F) The chief may issue an order temporarily restricting or suspending a livery certificate of registration and the privileges associated with it without a hearing if the chief finds that the holder of the certificate has violated this chapter.

Sec. 1547.543. (A) Any bona fide dealer in watercraft, or any manufacturer of watercraft, upon annual application to the division of parks and watercraft, may receive for each separate place of business a dealer or manufacturer registration certificate assigning a dealer number for use while operating watercraft on the waters in this state. ~~A dealer or manufacturer registration certificate shall not be used for any commercial purpose such as the rental or chartering of watercraft, nor shall the certificate be loaned~~

A watercraft dealer, prospective purchaser, or third party operating the watercraft may use a registration certificate on a watercraft when any of the following occurs:

(1) The dealer or third party is transporting the watercraft to the person who purchased it from the dealer;

(2) The dealer is demonstrating the capabilities of the watercraft for purposes of selling or leasing the watercraft;

(3) The dealer or, with the permission of the dealer, the prospective purchaser or third party is otherwise utilizing the watercraft.

However, a watercraft dealer shall not use a registration certificate for any commercial purpose, such as the rental or chartering of watercraft. In addition, a watercraft dealer shall not loan a certificate to any person for the purpose of circumventing any law of this state.

The fee for such a certificate shall be fifty dollars annually.

The chief of the division of ~~watercraft~~ shall select an authorized agent from among those designated under section 1547.54 of the Revised Code to issue dealer and manufacturer registration certificates. The agent shall provide an authorized facsimile of the signature of the chief on each registration certificate and on each pocket-sized certificate issued under this section.

(B) Registration certificates issued to marine dealers or manufacturers shall be available for inspection at all times at the dealers' or manufacturers' place of business for which the certificates were issued.

(C) The division shall issue to each registered dealer or manufacturer one or more pocket-sized certificates bearing the dealer or manufacturer registration number, which shall be carried by the dealer, the manufacturer, or an employee aboard any watercraft being operated on the waters in this state.

(D) Each dealer in or manufacturer of watercraft shall display on both sides of any watercraft being operated on the waters in this state the dealer or manufacturer registration number and the validation decals assigned by the authorized agent selected by the chief under this section so that the decals and number are clearly visible under normal operating conditions. The authorized agent selected by the chief shall furnish with each dealer or manufacturer registration certificate one or more sets of registration validation decals of a size and shape prescribed by the chief. Additional sets of decals may be purchased for a two-dollar fee.

In accordance with federal law, no person shall recklessly display or affix a dealer or manufacturer registration number on a watercraft in a manner that causes permanent alteration to the watercraft's hull prior to a final sale.

(E) The chief may issue an order temporarily or permanently restricting or suspending a dealer or manufacturer registration certificate without a hearing if the chief finds that the holder of the certificate has violated this section.

Sec. 1547.544. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the division of parks and watercraft shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a certificate issued pursuant to section 1547.542 or 1547.543 of the Revised Code.

Sec. 1547.55. All moneys collected by the chief of the division of parks and watercraft under this chapter shall be paid into the waterways safety fund established in section 1547.75 of the Revised Code. All expenses for

salaries, operation, and administration of the division ~~of watercraft~~ relating to boating shall be paid from the fund. The chief may make expenditures from the fund for publishing statutes and rules concerning watercraft, for publications which are solely for the purpose of providing education in watercraft safety, sanitation, or operation, and for other educational devices for that purpose. The chief shall make payments to the division of parks and recreation, the division of wildlife, conservancy districts, and political subdivisions of this state as further provided in section 1547.56 of the Revised Code. No moneys paid into the fund shall be used or paid out for any purposes other than those for which the fund is appropriated. All investment earnings of the fund shall be credited to the fund.

Sec. 1547.56. All applications for a registration certificate filed with the chief of the division of parks and watercraft shall bear a notation as to water principally used by the watercraft. The ~~division of parks and recreation, the~~ division of wildlife, conservancy districts, and other political subdivisions having impounded bodies of water upon which boating is permitted and authorized shall file annually with the chief an application for refund. The chief shall annually reimburse ~~the division of parks and recreation,~~ the division of wildlife, conservancy districts, and such other political subdivisions which have made proper application, in the amount of money collected by the chief as fees for the issuance of registration certificates commensurate with the number of watercraft having designated the waters of the division, conservancy district, or political subdivision as the water principally used. The amounts so refunded shall not be less than ninety per cent of the amounts separately collected by ~~the division of parks and recreation,~~ the division of wildlife, conservancy districts, and other political subdivisions, in the calendar year 1959, for watercraft license fees so long as the total revenue received by the division of parks and watercraft in each succeeding license year thereafter is equal to, or in excess of, the total revenue derived by all state departments, conservancy districts, and political subdivisions of this state, requiring licenses, and received by them in the calendar year 1959. The chief shall first deduct from the amount to be refunded the applicable pro rata share of all costs of operation of the division of watercraft determined by the ratio between the amount to be so refunded and the total fees received by the division ~~of watercraft~~ for issuances of registration certificates. On all applications which have designated water other than those specified above as water principally used, the chief shall pay the fees received from the applications to the waterways safety fund established in section 1547.75 of the Revised Code.

Sec. 1547.57. (A) Except as otherwise provided in division (C) of this

section, when the chief of the division of parks and watercraft issues a registration certificate under section 1547.54 of the Revised Code, the chief also shall issue to the applicant two tags not larger than three inches square, color coded, indicating the expiration date of the certificate. The owner of watercraft currently documented by the United States coast guard and for which a registration certificate is issued shall securely affix one tag to the watercraft's port side and the other tag to the starboard side so that the tags are clearly visible under normal operating conditions. The tags shall be removed from the watercraft when they become invalid. The owner of any other watercraft for which a registration certificate is issued shall securely affix one tag to the watercraft's port side, six inches toward the stern from the identification number, and the other tag to the starboard side, six inches toward the stern from the identification number. The tags shall be securely affixed to the watercraft prior to its operation, but shall be removed from the watercraft when they become invalid. A person may operate without a registration certificate issued under section 1547.54 of the Revised Code, for a period not to exceed forty-five days, any watercraft required to be titled on the waters in this state if the person is in compliance with section 1547.531 of the Revised Code.

(B) The owner of every watercraft requiring numbering by this state shall attach to each side of the bow of the watercraft the permanent identification number in such manner as may be prescribed by applicable federal standards in order that it shall be clearly visible. The number shall be maintained in a legible condition at all times. No number other than the number assigned to a watercraft or granted by reciprocity pursuant to this chapter shall be painted, attached, or otherwise displayed on either side of the bow of the watercraft.

(C) When the chief issues a registration certificate under section 1547.54 of the Revised Code for a canoe, rowboat, or inflatable watercraft that has not been numbered under section 1547.53 of the Revised Code, the chief also shall issue to the applicant a tag not larger than three inches by six inches, with distinguishing color coding and a number for identification purposes. The owner of the canoe, rowboat, or inflatable watercraft for which the registration certificate is issued shall affix the tag securely to a location on the canoe, rowboat, or inflatable watercraft as prescribed by rules ~~adopted by the chief under section 1547.52 of the Revised Code.~~

(D) No person shall operate or permit to be operated any watercraft on the waters in this state in violation of this section.

Sec. 1547.59. The operator of a vessel involved in a collision, accident, or other casualty, so far as the operator can do so without serious danger to

the operator's own vessel, crew, and passengers, shall render to other persons affected by the collision, accident, or other casualty such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the collision, accident, or other casualty. The operator also shall give the operator's name, address, and identification of the operator's vessel in writing to any person injured and to the owner of any property damaged in the collision, accident, or other casualty.

Any person who renders assistance at the scene of a collision, accident, or other casualty involving a vessel is not liable in a civil action for damages or injury to persons or property resulting from any act or omission in rendering assistance or in providing or arranging salvage, towage, medical treatment, or other assistance, except that the person is liable for willful or wanton misconduct in rendering assistance. Nothing in this section precludes recovery from any tortfeasor causing a collision, accident, or other casualty of damages caused or aggravated by the rendering of assistance.

In the case of collision, accident, or other casualty involving a vessel, the operator thereof, if the collision, accident, or other casualty results in loss of life, personal injury requiring medical treatment beyond first aid, ~~or~~ damage to property in excess of five hundred dollars, or the total loss of a vessel, shall file with the chief of the division of parks and watercraft a full description of the collision, accident, or other casualty on a form prescribed by the chief. ~~The report so filed shall be used for statistical purposes only and shall not be admissible for any purpose in any civil, criminal, or administrative action at law.~~

If the operator of the vessel involved in a collision, accident, or other casualty is incapacitated, the investigating law enforcement officer shall file the required form as prescribed by the chief.

Sec. 1547.61. This chapter and other applicable laws of this state govern the operation, equipment, registration, numbering, and all other matters relating thereto whenever any vessel is operated on the waters in this state, whether the waters are under the jurisdiction and control of a state department, conservancy district, or political subdivision, or when any activity regulated by this chapter takes place thereon; but nothing in this chapter prevents the adoption of any rule or ordinance relating to operation and equipment of vessels the provisions of which are identical to the provisions of this chapter or rules ~~adopted under it~~; provided, that such rules or ordinances shall be operative only so long as and to the extent that they continue to be identical to the provisions of this chapter or rules ~~adopted under it~~. Conservancy districts and political subdivisions may adopt ordinances or rules limiting the horsepower of inboard or outboard motors,

the maximum and minimum size and type of vessels, and the speed at which vessels may be operated, except that, upon impounded bodies of water covering three thousand five hundred acres of land or more, no conservancy district or political subdivision shall prohibit the use of motors of one hundred twenty horsepower or less when used in conjunction with properly proportioned boats in a reasonable area to be designed for the use of those motors and boats and for water skiing; and provided that upon Tappan Lake no conservancy district or political subdivision shall prohibit the use of motors of sixty-five horsepower or less when used in conjunction with properly proportioned boats in a reasonable area to be designated for the use of those motors and boats and for water skiing.

Any state department, conservancy district, or political subdivision may, at any time, but only after public notice published in a newspaper of local circulation, make formal application to the chief of the division of parks and watercraft for special rules with reference to the operation of vessels on any waters within its territorial limits and shall set forth therein the reasons which make such special rules necessary or appropriate.

The division of parks and watercraft may make special rules governing the operation of vessels on any waters within the territorial limits of any political subdivision.

No political subdivision or conservancy district shall charge any license fee or other charge against the owner of any vessel for the right or privilege of operating the vessel upon the waters of any such political subdivision or conservancy district, and no license or number in addition to those provided for under this chapter shall be required by any state department, conservancy district, or political subdivision.

Sec. 1547.63. Every sheriff, deputy sheriff, marshal, deputy marshal, member of the organized police department of any municipal corporation, police constable of any township, wildlife officer, ~~park officer, preserve~~ natural resources officer, conservancy district police officer, and other law enforcement officer, within the area of ~~his~~ any such law enforcement officer's authority, may enforce this chapter and rules ~~adopted by the chief of the division of watercraft~~ and, in the exercise thereof, may stop and board any vessel subject to this chapter and rules ~~adopted under it~~.

Sec. 1547.65. (A) A watercraft constructed on or after November 1, 1972, shall have a hull identification number permanently displayed and affixed to it in accordance with federal law.

(B) A watercraft constructed before November 1, 1972, shall have a hull identification number assigned to it by the chief of the division of parks and watercraft at the time of registration, at the time of application for title, after

transfer of ownership, or at the time of a change to this state as the principal location of operation. The number shall be permanently displayed and affixed as prescribed by rules ~~adopted under section 1547.52 of the Revised Code.~~

(C) A person who builds a watercraft or imports a watercraft from another country for personal use and not for the purpose of sale shall request a hull identification number from the chief and permanently display and affix the number as prescribed by rules ~~adopted under section 1547.52 of the Revised Code.~~

(D) No person shall operate or permit to be operated any watercraft on the waters in this state in violation of this section.

Sec. 1547.66. No person shall deface or alter any serial number, model designation, or other identifying mark on any watercraft or motor as placed thereon by the manufacturer thereof, or remove, deface, or alter the registration number of any watercraft as the registration number appears on the bow thereof except by specific order of the chief of the division of parks and watercraft.

No person shall give purposely false information concerning any watercraft or motor when applying for registration of the watercraft. Any certificate issued which is found to be based on such false information is void.

Sec. 1547.67. The division of parks and watercraft, with the approval of the director of natural resources, may expend, for the purpose of assisting political subdivisions, conservancy districts, and state departments to establish or maintain and operate a marine patrol for the purpose of enforcing this chapter and Chapter 1548. of the Revised Code and rules adopted under them and to provide emergency response to boating accidents on the water, such funds as are appropriated by the general assembly for that purpose and, in addition, such moneys from the waterways safety fund established in section 1547.75 of the Revised Code as determined to be necessary by the division not to exceed ten per cent of all moneys accruing to the fund. In no case shall the grant to a political subdivision, conservancy district, or state department, not including the department of natural resources, total more than thirty-five thousand dollars in a calendar year. Moneys so allocated may be used for the purchase, maintenance, and operation of vessels and marine equipment, educational materials, and personnel salaries that are necessary for enforcement of this chapter and Chapter 1548. of the Revised Code and rules adopted under them and to provide emergency response to boating accidents on the water.

The division shall disburse the moneys as provided in this section in



accordance with its determination of need in the enforcement of this chapter and Chapter 1548. of the Revised Code and rules adopted under them and shall disburse those moneys only on a cost share basis to supplement funds allocated by a political subdivision, conservancy district, or state department for that purpose. A grantee shall provide at least twenty-five per cent of the total program cost.

Sec. 1547.68. To assist political subdivisions, conservancy districts, state departments, or nonprofit organizations in establishing or participating in boating safety education programs, the division of parks and watercraft, with the approval of the director of natural resources, may expend moneys appropriated by the general assembly for those purposes and, additionally, moneys from the waterways safety fund established in section 1547.75 of the Revised Code determined to be necessary by the division, but not to exceed ten per cent of all moneys accruing to the fund. In no case shall a grant to any one political subdivision, conservancy district, state department, or nonprofit organization total more than thirty thousand dollars in a calendar year. Moneys so allocated may be used for personnel salaries and training, materials, supplies, equipment, and related expenses needed to conduct boating education programs.

The division shall disburse the moneys as provided in this section in accordance with its determination of need in the enforcement of this chapter and rules ~~adopted under it~~ or for the establishment of or participation in a boating safety education program. The division shall disburse moneys only on a cost share basis. A grantee shall provide at least twenty-five per cent of the total program cost and may do so with cash, in-kind services or contributions, or a combination. The cost share shall be allocated by a political subdivision, conservancy district, state department, or nonprofit organization for those purposes.

Sec. 1547.71. The division of parks and watercraft shall act as the refuge and small boat harbor agency of the state for the purpose of participating with, and co-operating with the department of the army, corps of engineers, pursuant to the enabling provisions in the act known as the "Fletcher Act of 1932" and its amendments and successors, including Public Law 14 of the 79th congress authorized March 2, 1945, pursuant to House Document No. 446 of the 78th congress.

The division ~~of watercraft~~ shall participate and co-operate with the corps of engineers in acquiring, constructing, and maintaining refuge and light draft vessel harbor projects, channels, and facilities for vessels in the navigable waters lying within the boundaries of the state.

Sec. 1547.72. (A) The division of parks and watercraft, whenever it

considers it in the best interests of the state, and as an aid to lake commerce and navigation or recreational boating, may construct, maintain, repair, and operate refuge harbors and other projects for the harboring, mooring, docking, launching, and storing of light draft vessels, and marine recreational facilities. Subject to section 1547.77 of the Revised Code, those harbors, projects, and facilities may be constructed on waters in this state. If a refuge harbor lies between the shoreline and a harbor line established by the United States government so as to interfere with the wharfing out by a littoral owner to navigable waters, the littoral owner shall consent thereto in writing before the location and construction thereof.

The division may lease any space in those refuge harbors or other projects for the harboring, mooring, docking, launching, and storing of light draft vessels. The rental therefor shall be determined by the division.

(B) The division, with the approval of the director of natural resources, may expend for the acquisition of any rights in land; for the construction, maintenance, repair, and operation of refuge harbors and other projects for the harboring, mooring, docking, launching, and storing of light draft vessels, and marine recreational facilities on waters in this state; for planning, studies, surveys, and engineering therefor; or for the improvement of harbors, channels, and waterways to foster vessel safety, funds appropriated by the general assembly for those purposes and, in addition, moneys accruing to the waterways safety fund established in section 1547.75 of the Revised Code.

(C) The division, with the approval of the director, may distribute moneys for the purpose of administering federal assistance to public and private entities in accordance with guidelines established under each federal grant program. Public and private entities that receive moneys under this division may charge fees at the facilities in accordance with the applicable federal guidelines.

Sec. 1547.73. There is hereby created in the division of parks and watercraft a waterways safety council composed of five members appointed by the governor with the advice and consent of the senate. Not more than three of such appointees shall belong to the same political party. Terms of office shall be for five years, commencing on the first day of February and ending on the thirty-first day of January. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. The chief of the division of parks and watercraft shall act as secretary of the council. In the event of the death, removal, resignation, or incapacity of a member of the council, the governor, with the advice and consent of the senate, shall appoint a successor to fill the unexpired term

who shall hold office for the remainder of the term for which the member's predecessor was appointed. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. The governor may remove any appointed member of the council for misfeasance, nonfeasance, or malfeasance in office.

The council may:

(A) Advise with and recommend to the chief as to plans and programs for the construction, maintenance, repair, and operation of refuge harbors and other projects for the harboring, mooring, docking, and storing of light draft vessels as provided in sections 1547.71, 1547.72, and 1547.78 of the Revised Code;

(B) Advise with and recommend to the chief as to the methods of coordinating the shore erosion projects of the department of natural resources with the refuge of light draft vessel harbor projects;

(C) Advise with and recommend to the chief as to plans and programs for the acquisition, protection, construction, maintenance, and administration of wild river areas, scenic river areas, and recreational river areas;

(D) Consider and make recommendations upon any matter which is brought to its attention by any person or that the chief may submit to it;

(E) Submit to the governor biennially recommendations for amendments to the laws of the state relative to refuge and light draft vessel harbor projects.

Before entering upon the discharge of official duties, each member of the council shall take and subscribe to an oath of office, which oath, in writing, shall be filed in the office of the secretary of state.

The members of the council shall serve without compensation, but shall be entitled to receive their actual and necessary expenses incurred in the performance of their official duties from the waterways safety fund as provided in section 1547.75 of the Revised Code.

The council shall, by a majority vote of all its members, adopt and amend bylaws.

To be eligible for appointment as a member of the council, a person shall be a citizen of the United States and an elector of the state and possess a knowledge of and have an interest in small boat operations.

The council shall hold at least four regular quarterly meetings each year. Special meetings shall be held at such times as the bylaws of the council provide, or at the behest of a majority of its members. Notices of all meetings shall be given in such manner as the bylaws provide. The council

shall choose annually from among its members a chairperson to preside over its meetings. A majority of the members of the council shall constitute a quorum. No advice shall be given or recommendation made without a majority of the members of the council concurring therein.

Sec. 1547.74. Facilities in harbors and connecting waterways established under sections ~~1546.021, 1547.71, and 1547.72, and 1547.78~~ of the Revised Code shall be open to all on equal and reasonable terms.

Sec. 1547.75. There is hereby created in the state treasury the waterways safety fund ~~for the purposes provided in this chapter and Chapter 1548. of the Revised Code. All moneys collected or received to implement the chapters shall be deposited in the state treasury to the credit of the fund.~~ The fund shall consist of money credited to it under this chapter and Chapters 1546. and 1548. of the Revised Code. The fund shall be used for boating-related activities under those chapters.

Sec. 1547.77. Any action taken by the chief of the division of parks and watercraft under ~~sections 1547.71 to 1547.78~~ Chapters 1546. and 1547. relating to refuge and small boat harbors of the Revised Code shall not be deemed in conflict with certain powers and duties conferred upon and delegated to federal agencies and to municipal corporations under Section 7 of Article XVIII, Ohio Constitution, or as provided by sections 721.04 to 721.11 of the Revised Code.

Sec. 1547.79. All fines, forfeitures, and penalties arising from prosecutions, convictions, confiscations, or other actions commenced by department of natural resources law enforcement officers, including, but not limited to, wildlife officers, ~~park officers, and state watercraft~~ natural resources officers under this chapter or Chapter 1548. of the Revised Code, or commenced by ~~state watercraft~~ natural resources officers under any law prohibiting the dumping of refuse, trash, or litter into the waters in this state, shall be paid to the director of natural resources and by ~~him~~ the director paid into the waterways safety fund established in section 1547.75 of the Revised Code for the purposes provided in sections 1547.55, 1547.67, 1547.71, and 1547.72 of the Revised Code.

Sec. 1547.80. (A) Notwithstanding any provision of the Revised Code to the contrary, the ~~department of natural resources,~~ division of parks and watercraft, in consultation with the department of public safety, shall adopt rules regarding the security of ports on waterways in this state and the facilities associated with those ports. The rules shall include but not be limited to provisions that do the following:

(1) Designate the ports, located in whole or in part within this state, to which the requirements of this section apply, considering the size and

activity of the port, its proximity to a metropolitan location, its proximity to a sensitive site as defined in section 4563.30 of the Revised Code, and any other criteria related to security that the department considers reasonable;

(2) Require the designated ports to register biennially with the department of natural resources;

(3) Require the designated ports to do all of the following:

(a) Prepare a written security plan that is consistent with the most recent security guidelines established pursuant to the national maritime transportation security plan by the secretary in the department in which the United States coast guard is located;

(b) Develop a written list of emergency contacts and telephone numbers;

(c) Restrict access to vessels by unauthorized persons;

(d) Require those piloting or renting vessels to provide identification;

(e) Create an emergency ~~locator~~ locator map that identifies areas of the port facilities;

(f) Familiarize local law enforcement agencies with the facilities and consult with them in the development of the port's security procedures.

(4) Require all owners of vessels or pilots to secure their vessels;

(5) Require all persons who rent a vessel to present government-issued identification, in addition to any required license, to the person who rents them the vessel;

(6) Address the security of port facilities located in whole or in part in this state in any other manner the department determines to be necessary.

(B) The security plan and the emergency locator map this section describes shall display prominently the following statement: "This document may contain information that, if disclosed, could endanger the life or safety of the public; therefore, this document is to be maintained and used in a manner that preserves the confidentiality of the information it contains in a manner consistent with law."

(C) Each port facility designated pursuant to division (A) of this section shall provide a copy of the registration this section requires and the port's security plan and emergency locator map to the department of public safety, to the department of natural resources, to the sheriff of the county in which the port is located in whole or in part, and if the facility is located in whole or in part in a municipal corporation, to the chief of police of each municipal corporation in which the port is located. Copies of registration, emergency locator maps, and security plans provided under this division are not public records under section 149.43 of the Revised Code and are not subject to mandatory disclosure under that section.

(D) This section shall not be construed to replace or supersede any standards for facilities the United States department of homeland security and the transportation security administration require, safety standards of the United States department of transportation, or any standard or law related to maritime security enforced by the secretary of the department in which the United States coast guard is located.

Sec. 1547.81. The director of natural resources or the director's representative may create, supervise, operate, protect, and maintain wild, scenic, and recreational river areas. In creating wild, scenic, and recreational river areas, the director shall classify each such area as either a wild river area, a scenic river area, or a recreational river area. The director or the director's representative may prepare and maintain a plan for the establishment, development, use, and administration of those areas as a part of the comprehensive state plans for water management and outdoor recreation. The director or the director's representative may cooperate with federal agencies administering any federal program concerning wild, scenic, or recreational river areas.

The director may propose for establishment as a wild, scenic, or recreational river area a part or parts of any watercourse in this state, with adjacent lands, that in the director's judgment possesses water conservation, scenic, fish, wildlife, historic, or outdoor recreation values that should be preserved. The area shall include lands adjacent to the watercourse in sufficient width to preserve, protect, and develop the natural character of the watercourse, but shall not include any lands more than one thousand feet from the normal waterlines of the watercourse unless an additional width is necessary to preserve water conservation, scenic, fish, wildlife, historic, or outdoor recreation values.

The director shall publish the intention to declare an area a wild, scenic, or recreational river area at least once in a newspaper of general circulation in each county, any part of which is within the area, and shall send written notice of the intention to the legislative authority of each county, township, and municipal corporation and to each conservancy district established under Chapter 6101. of the Revised Code, any part of which is within the area, and to the director of transportation, the director of development, the director of administrative services, and the director of environmental protection. The notices shall include a copy of a map and description of the area.

After thirty days from the last date of publication or dispatch of written notice as required in this section, the director shall enter a declaration in the director's journal that the area is a wild river area, scenic river area, or

recreational river area. When so entered, the area is a wild, scenic, or recreational river area, as applicable. The director, after thirty days' notice as prescribed in this section and upon the approval of the recreation and resources commission created in section 1501.04 of the Revised Code, may terminate the status of an area as a wild river area, scenic river area, or recreational river area by an entry in the director's journal.

Declaration by the director that an area is a wild, scenic, or recreational river area does not authorize the director or any governmental agency or political subdivision to restrict the use of land by the owner thereof or any person acting under the landowner's authority or to enter upon the land and does not expand or abridge the regulatory authority of any governmental agency or political subdivision over the area.

The director may enter into a lease or other agreement with a political subdivision to administer all or part of a wild, scenic, or recreational river area and may acquire real property or any estate, right, or interest therein in order to provide for the protection and public recreational use of a wild, scenic, or recreational river area.

The chief of the division of parks and watercraft or the chief's representative may participate in watershed-wide planning with federal, state, and local agencies in order to protect the values of wild, scenic, and recreational river areas.

Sec. 1547.83. The chief of the division of parks and watercraft shall administer the state programs for wild river areas, scenic river areas, and recreational river areas. The chief may accept and administer state and federal financial assistance for the maintenance, protection, and administration of wild, scenic, and recreational river areas and for construction of facilities within those areas. The chief, with the approval of the director of natural resources, may expend for the purpose of administering the state programs for wild, scenic, and recreational river areas money that is appropriated by the general assembly for that purpose, money that is in the scenic rivers protection fund created in section 4501.24 of the Revised Code, and money that is in the waterways safety fund created in section 1547.75 of the Revised Code, including money generated by the waterways conservation assessment fee levied by sections 1547.54 and 1547.542 of the Revised Code, as determined to be necessary by the division of parks and watercraft not to exceed six hundred fifty thousand dollars per fiscal year. The chief may condition any expenditures, maintenance activities, or construction of facilities on the adoption and enforcement of adequate floodplain zoning or land use rules.

Any instrument by which real property is acquired pursuant to this

section shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

The chief may cooperate with federal agencies administering any federal program concerning wild, scenic, or recreational river areas.

Sec. 1547.85. The director of natural resources may participate in the federal program for the protection of certain selected rivers that are located within the boundaries of the state as provided in the "Wild and Scenic Rivers Act," 82 Stat. 906 (1968), 16 U.S.C. 1271 et seq., as amended. The director may authorize the chief of the division of parks and watercraft to participate in any other federal program established for the purpose of protecting, conserving, or developing recreational access to waters in this state that possess outstanding scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values.

Sec. 1547.86. Any action taken by the chief of the division of parks and watercraft under sections 1547.81 to ~~1547.87~~ 1547.86 of the Revised Code shall not be deemed in conflict with certain powers and duties conferred on and delegated to federal agencies and to municipal corporations under Section 7 of Article XVIII, Ohio Constitution, or as provided by sections 721.04 to 721.11 of the Revised Code.

Sec. 1547.99. (A) Whoever violates section 1547.91 of the Revised Code is guilty of a felony of the fourth degree.

(B) Whoever violates division (F) of section 1547.08, section 1547.10, division (I) of section 1547.111, section 1547.13, or section 1547.66 of the Revised Code is guilty of a misdemeanor of the first degree.

(C) Whoever violates a provision of this chapter or a rule ~~adopted thereunder~~, for which no penalty is otherwise provided, is guilty of a minor misdemeanor.

(D) Whoever violates section 1547.07, 1547.132, or 1547.12 of the Revised Code without causing injury to persons or damage to property is guilty of a misdemeanor of the fourth degree.

(E) Whoever violates section 1547.07, 1547.132, or 1547.12 of the Revised Code causing injury to persons or damage to property is guilty of a misdemeanor of the third degree.

(F) Whoever violates division (N) of section 1547.54, division (G) of section 1547.30, or section 1547.131, 1547.25, 1547.33, 1547.38, 1547.39, 1547.40, 1547.65, 1547.69, or 1547.92 of the Revised Code or a rule ~~adopted under division (A)(2) of section 1547.52 of the Revised Code~~ is guilty of a misdemeanor of the fourth degree.

(G) Whoever violates section 1547.11 of the Revised Code is guilty of a misdemeanor of the first degree and shall be punished as provided in



division (G)(1), (2), or (3) of this section.

(1) Except as otherwise provided in division (G)(2) or (3) of this section, the court shall sentence the offender to a jail term of three consecutive days and may sentence the offender pursuant to section 2929.24 of the Revised Code to a longer jail term. In addition, the court shall impose upon the offender a fine of not less than one hundred fifty nor more than one thousand dollars.

The court may suspend the execution of the mandatory jail term of three consecutive days that it is required to impose by division (G)(1) of this section if the court, in lieu of the suspended jail term, places the offender under a community control sanction pursuant to section 2929.25 of the Revised Code and requires the offender to attend, for three consecutive days, a drivers' intervention program that is certified pursuant to section 5119.38 of the Revised Code. The court also may suspend the execution of any part of the mandatory jail term of three consecutive days that it is required to impose by division (G)(1) of this section if the court places the offender under a community control sanction pursuant to section 2929.25 of the Revised Code for part of the three consecutive days; requires the offender to attend, for that part of the three consecutive days, a drivers' intervention program that is certified pursuant to section 5119.38 of the Revised Code; 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 drivers' intervention program. The court may require the offender, as a condition of community control, to attend and satisfactorily complete any treatment or education programs, in addition to the required attendance at a drivers' intervention program, 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 any other conditions of community control on the offender that it considers necessary.

(2) If, within six years of the offense, the offender has been convicted of or pleaded guilty to one violation of section 1547.11 of the Revised Code or one other equivalent offense, the court shall sentence the offender to a jail term of ten consecutive days and may sentence the offender pursuant to section 2929.24 of the Revised Code to a longer jail term. In addition, the court shall impose upon the offender a fine of not less than one hundred fifty nor more than one thousand dollars.

In addition to any other sentence that it imposes upon the offender, the court may require the offender to attend a drivers' intervention program that is certified pursuant to section 5119.38 of the Revised Code.

(3) If, within six years of the offense, the offender has been convicted of or pleaded guilty to more than one violation or offense identified in division (G)(2) of this section, the court shall sentence the offender to a jail term of thirty consecutive days and may sentence the offender to a longer jail term of not more than one year. In addition, the court shall impose upon the offender a fine of not less than one hundred fifty nor more than one thousand dollars.

In addition to any other sentence that it imposes upon the offender, the court may require the offender to attend a drivers' intervention program that is certified pursuant to section 5119.38 of the Revised Code.

(4) Upon a showing that serving a jail term would seriously affect the ability of an offender sentenced pursuant to division (G)(1), (2), or (3) of this section to continue the offender's employment, the court may authorize that the offender be granted work release after the offender has served the mandatory jail term of three, ten, or thirty consecutive days that the court is required by division (G)(1), (2), or (3) of this section to impose. No court shall authorize work release during the mandatory jail term of three, ten, or thirty consecutive days that the court is required by division (G)(1), (2), or (3) of this section to impose. The duration of the work release shall not exceed the time necessary each day for the offender to commute to and from the place of employment and the place in which the jail term is served and the time actually spent under employment.

(5) Notwithstanding any section of the Revised Code that authorizes the suspension of the imposition or execution of a sentence or the placement of an offender in any treatment program in lieu of being imprisoned or serving a jail term, no court shall suspend the mandatory jail term of ten or thirty consecutive days required to be imposed by division (G)(2) or (3) of this section or place an offender who is sentenced pursuant to division (G)(2) or (3) of this section in any treatment program in lieu of being imprisoned or serving a jail term until after the offender has served the mandatory jail term of ten or thirty consecutive days required to be imposed pursuant to division (G)(2) or (3) of this section. Notwithstanding any section of the Revised Code that authorizes the suspension of the imposition or execution of a sentence or the placement of an offender in any treatment program in lieu of being imprisoned or serving a jail term, no court, except as specifically authorized by division (G)(1) of this section, shall suspend the mandatory jail term of three consecutive days required to be imposed by division (G)(1) of this section or place an offender who is sentenced pursuant to division (G)(1) of this section in any treatment program in lieu of imprisonment until after the offender has served the mandatory jail term of three consecutive

days required to be imposed pursuant to division (G)(1) of this section.

(6) As used in division (G) of this section:

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

(b) "Jail term" and "mandatory jail term" have the same meanings as in section 2929.01 of the Revised Code.

(H) Whoever violates section 1547.304 of the Revised Code is guilty of a misdemeanor of the fourth degree and also shall be assessed any costs incurred by the state or a county, township, municipal corporation, or other political subdivision in disposing of an abandoned junk vessel or outboard motor, less any money accruing to the state, county, township, municipal corporation, or other political subdivision from that disposal.

(I) Whoever violates division (B) or (C) of section 1547.49 of the Revised Code is guilty of a minor misdemeanor.

(J) Whoever violates section 1547.31 of the Revised Code is guilty of a misdemeanor of the fourth degree on a first offense. On each subsequent offense, the person is guilty of a misdemeanor of the third degree.

(K) Whoever violates section 1547.05 or 1547.051 of the Revised Code is guilty of a misdemeanor of the fourth degree if the violation is not related to a collision, injury to a person, or damage to property and a misdemeanor of the third degree if the violation is related to a collision, injury to a person, or damage to property.

(L) The sentencing court, in addition to the penalty provided under this section for a violation of this chapter or a rule ~~adopted under it~~ that involves a powercraft powered by more than ten horsepower and that, in the opinion of the court, involves a threat to the safety of persons or property, shall order the offender to complete successfully a boating course approved by the national association of state boating law administrators before the offender is allowed to operate a powercraft powered by more than ten horsepower on the waters in this state. Violation of a court order entered under this division is punishable as contempt under Chapter 2705. of the Revised Code.

Sec. 1548.01. (A) As used in this chapter, "electronic" and "watercraft" have the same meanings as in section ~~1547.01~~ 1546.01 of the Revised Code.

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

(1) A watercraft covered by a marine document in effect that has been assigned to it by the United States government pursuant to federal law;

(2) A watercraft from a country other than the United States temporarily using the waters in this state;

(3) A watercraft whose owner is the United States, a state, or a political subdivision of a state;

(4) A ship's lifeboat. As used in division (B)(4) of this section, "lifeboat" means a watercraft that is held aboard another vessel and used exclusively for emergency purposes.

(5) A canoe;

(6) A watercraft less than fourteen feet in length without a permanently affixed mechanical means of propulsion;

(7) A watercraft less than fourteen feet in length with a permanently fixed mechanical means of propulsion of less than ten horsepower as determined by the manufacturer's rating;

(8) Outboard motors of less than ten horsepower as determined by the manufacturer's rating.

(C) The various certificates, applications, and assignments necessary to provide certificates of title for watercraft and outboard motors shall be made on appropriate forms approved by the chief of the division of parks and watercraft.

Sec. 1548.02. The chief of the division of parks and watercraft shall adopt such rules as the chief considers necessary to ensure uniform and orderly operation of this chapter, and the clerks of the courts of common pleas shall conform to those rules. The chief shall receive and file in the chief's office all information forwarded to the chief by the clerks under this chapter and shall maintain indexes covering the state at large for that information. These indexes shall be for the state at large and not for individual counties.

The chief shall check with the chief's record all duplicate certificates of title received in the chief's office from the clerks.

If it appears that any certificate of title has been improperly issued or is no longer required, the chief shall cancel the certificate. Upon the cancellation of any certificate of title, the chief shall notify the clerk who issued it, and the clerk shall enter the cancellation in the clerk's records. The chief also shall notify the person to whom the certificate of title was issued, as well as any lienholders appearing on it, of the cancellation and, if it is a physical certificate of title, shall demand the surrender of the certificate of title, but the cancellation shall not affect the validity of any lien noted on it. The holder of a physical certificate of title shall return it to the chief immediately.

The clerks shall keep on hand a sufficient supply of blank forms that, except certificate of title and memorandum certificate forms, shall be furnished and distributed without charge to registered manufacturers or dealers or to other persons residing within the county. The clerks shall provide the certificates of title and ribbons, cartridges, or other devices

necessary for the operation of the certificate of title processing equipment as determined by the automated title processing board pursuant to division (C) of section 4505.09 of the Revised Code from moneys provided to the clerks from the automated title processing fund in accordance with division (B) of section 4505.09 of the Revised Code. The clerks shall furnish all other supplies from other moneys available to the clerks.

Sec. 1548.031. (A) No minor under eighteen years of age shall sell or otherwise dispose of a watercraft or outboard motor or purchase or otherwise acquire a watercraft or outboard motor unless the application for a certificate of title is accompanied by a form prescribed by the chief of the division of parks and watercraft and signed in the presence of a clerk or deputy clerk of a court of common pleas or any notary public by one of the minor's parents, the minor's guardian, or another person having custody of the minor authorizing the sale, disposition, purchase, or acquisition of the watercraft or outboard motor. At the time the adult signs the form, the adult shall provide identification establishing that the adult is the individual whose signature appears on the form.

(B) No right, title, or claim to or interest in a watercraft or outboard motor shall be acquired by or from a minor unless the application for a certificate of title is accompanied by the form required by this section.

(C) No clerk of a court of common pleas shall be held liable in any civil action that arises under the law of this state for injury or loss to persons or property caused when a person has obtained a certificate of title in violation of this section unless the clerk failed to use reasonable diligence in ascertaining the age of the minor or the identity of the adult who signed the form authorizing the sale, disposition, purchase, or acquisition of the watercraft or outboard motor by the minor.

Sec. 1548.032. (A)(1) If a person who is not an electronic watercraft dealer owns a watercraft or outboard motor for which a physical certificate of title has not been issued by a clerk of a court of common pleas and the person sells the watercraft or outboard motor to a watercraft dealer registered under section 1547.543 of the Revised Code, the person is not required to obtain a physical certificate of title to the watercraft or outboard motor in order to transfer ownership to the dealer. The person shall present the dealer, in a manner approved by the chief of the division of parks and watercraft, with sufficient proof of the person's identity and complete and sign a form prescribed by the chief attesting to the person's identity and assigning the watercraft or outboard motor to the dealer. Except as otherwise provided in this section, the watercraft dealer shall present the assignment form to any clerk of a court of common pleas together with an

application for a certificate of title and payment of the fees prescribed by section 1548.10 of the Revised Code.

In a case in which an electronic certificate of title has been issued and either the buyer or seller of the watercraft or outboard motor is an electronic watercraft dealer, the electronic watercraft dealer instead may inform a clerk of a court of common pleas via electronic means of the sale of the watercraft or outboard motor and assignment of ownership of the watercraft or outboard motor. The clerk shall enter the information relating to the assignment into the automated title processing system, and ownership of the watercraft or outboard motor passes to the applicant when the clerk enters this information into the system. The dealer is not required to obtain a physical certificate of title to the watercraft or outboard motor in the dealer's name.

(2) A clerk shall charge and collect from a dealer a fee of five dollars for each watercraft or outboard motor assignment sent by the dealer to the clerk under division (A)(1) of this section. The fee shall be distributed in accordance with section 1548.10 of the Revised Code.

(B) If a person who is not an electronic watercraft dealer owns a watercraft or outboard motor for which a physical certificate of title has not been issued by a clerk of a court of common pleas and the person sells the watercraft or outboard motor to a person who is not a watercraft dealer registered under section 1547.543 of the Revised Code, the person shall obtain a physical certificate of title to the watercraft or outboard motor in order to transfer ownership of the watercraft or outboard motor to that person.

Sec. 1548.05. No manufacturer, importer, dealer, or other person shall sell or otherwise dispose of a new watercraft or outboard motor to a dealer to be used by the dealer for purposes of display and resale without delivering to the dealer a manufacturer's or importer's certificate executed in accordance with this section and with such assignments on it as are necessary to show title in the name of the purchaser. No dealer shall purchase or acquire a new watercraft or outboard motor without obtaining from the seller the manufacturer's or importer's certificate.

A manufacturer's or importer's certificate of the origin of a watercraft or outboard motor shall contain the following information in such form and together with such further information as the chief of the division of parks and watercraft may require:

(A) Description of the watercraft, including the make, year, length, series or model, if any, body type, hull identification number or serial number, and make, manufacturer's serial number, and horsepower of any

inboard motor or motors; or description of the outboard motor, including the make, year, series or model, if any, manufacturer's serial number, and horsepower;

(B) Certification of the date of transfer of the watercraft or outboard motor to a distributor or dealer or other transferee, and the name and address of the transferee;

(C) Certification that this was the first transfer of the new watercraft or outboard motor in ordinary trade and commerce;

(D) Signature and address of a representative of the transferor.

An assignment of a manufacturer's or importer's certificate before a notary public or other officer empowered to administer oaths shall be printed on the reverse side of the manufacturer's or importer's certificate in the form to be prescribed by the chief. The assignment form shall include the name and address of the transferee, a certification that the watercraft or outboard motor is new, and a warranty that the title at the time of delivery is subject only to such liens and encumbrances as are set forth and described in full in the assignment.

Sec. 1548.06. (A)(1) Application for a certificate of title for a watercraft or outboard motor shall be made upon a form prescribed by the chief of the division of parks and watercraft and shall be sworn to before a notary public or other officer empowered to administer oaths. The application shall be filed with the clerk of any court of common pleas. An application for a certificate of title may be filed electronically by any electronic means approved by the chief in any county with the clerk of the court of common pleas of that county. The application shall be accompanied by the fee prescribed in section 1548.10 of the Revised Code. The fee shall be retained by the clerk who issues the certificate of title and shall be distributed in accordance with that section. If a clerk of a court of common pleas, other than the clerk of the court of common pleas of an applicant's county of residence, issues a certificate of title to the applicant, the clerk shall transmit data related to the transaction to the automated title processing system.

(2) If a certificate of title previously has been issued for the watercraft or outboard motor, the application for a certificate of title also shall be accompanied by the certificate of title duly assigned unless otherwise provided in this chapter. If a certificate of title previously has not been issued for the watercraft or outboard motor in this state, the application, unless otherwise provided in this chapter, shall be accompanied by a manufacturer's or importer's certificate; by a sworn statement of ownership if the watercraft or outboard motor was purchased by the applicant on or before October 9, 1963, or if the watercraft is less than fourteen feet long

with a permanently affixed mechanical means of propulsion and was purchased by the applicant on or before January 1, 2000; or by a certificate of title, bill of sale, or other evidence of ownership required by the law of another state from which the watercraft or outboard motor was brought into this state. Evidence of ownership of a watercraft or outboard motor for which an Ohio certificate of title previously has not been issued and which watercraft or outboard motor does not have permanently affixed to it a manufacturer's serial number shall be accompanied by the certificate of assignment of a hull identification number assigned by the chief as provided in section 1548.07 of the Revised Code.

(3) The clerk shall retain the evidence of title presented by the applicant and on which the certificate of title is issued, except that, if an application for a certificate of title is filed electronically, by a vendor on behalf of a purchaser of a watercraft or outboard motor, the clerk shall retain the completed electronic record to which the vendor converted the certificate of title application and other required documents. The chief, after consultation with the attorney general, shall adopt rules that govern the location at which, and the manner in which, are stored the actual application and all other documents relating to the sale of a watercraft or outboard motor when a vendor files the application for a certificate of title electronically on behalf of a purchaser.

(B) The clerk shall use reasonable diligence in ascertaining whether the facts in the application are true by checking the application and documents accompanying it or the electronic record to which a vendor converted the application and accompanying documents with the records of watercraft and outboard motors in the clerk's office. If the clerk is satisfied that the applicant is the owner of the watercraft or outboard motor and that the application is in the proper form, the clerk shall issue a physical certificate of title over the clerk's signature and sealed with the clerk's seal unless the applicant specifically requests the clerk not to issue a physical certificate of title and instead to issue an electronic certificate of title. However, if the evidence indicates and an investigation shows that one or more Ohio titles already exist for the watercraft or outboard motor, the chief may cause the redundant title or titles to be canceled.

(C) In the case of the sale of a watercraft or outboard motor by a vendor to a general purchaser or user, the certificate of title shall be obtained in the name of the purchaser by the vendor upon application signed by the purchaser. In all other cases, the certificate shall be obtained by the purchaser. In all cases of transfer of watercraft or outboard motors, the application for certificate of title shall be filed within thirty days after the



later of the date of purchase or assignment of ownership of the watercraft or outboard motor. If the application for certificate of title is not filed within thirty days after the later of the date of purchase or assignment of ownership of the watercraft or outboard motor, the clerk shall charge a late penalty fee of five dollars in addition to the fee prescribed by section 1548.10 of the Revised Code. The clerk shall retain the entire amount of each late penalty fee.

(D) The clerk shall refuse to accept an application for certificate of title unless the applicant either tenders with the application payment of all taxes levied by or pursuant to Chapter 5739. or 5741. of the Revised Code based on the applicant's county of residence less, in the case of a sale by a vendor, any discount to which the vendor is entitled under section 5739.12 of the Revised Code, or submits any of the following:

(1) A receipt issued by the tax commissioner or a clerk of courts showing payment of the tax;

(2) A copy of the unit certificate of exemption completed by the purchaser at the time of sale as provided in section 5739.03 of the Revised Code;

(3) An exemption certificate, in a form prescribed by the tax commissioner, that specifies why the purchase is not subject to the tax imposed by Chapter 5739. or 5741. of the Revised Code.

Payment of the tax shall be in accordance with rules issued by the tax commissioner, and the clerk shall issue a receipt in the form prescribed by the tax commissioner to any applicant who tenders payment of the tax with the application for the certificate of title.

(E)(1) For receiving and disbursing the taxes paid to the clerk by a resident of the clerk's county, the clerk may retain a poundage fee of one and one one-hundredth per cent of the taxes collected, which shall be paid into the certificate of title administration fund created by section 325.33 of the Revised Code. The clerk shall not retain a poundage fee from payments of taxes by persons who do not reside in the clerk's county.

(2) A clerk, however, may retain from the taxes paid to the clerk an amount equal to the poundage fees associated with certificates of title issued by other clerks of courts of common pleas to applicants who reside in the first clerk's county. The chief of the division of parks and watercraft, in consultation with the tax commissioner and the clerks of the courts of common pleas, shall develop a report from the automated title processing system that informs each clerk of the amount of the poundage fees that the clerk is permitted to retain from those taxes because of certificates of title issued by the clerks of other counties to applicants who reside in the first

clerk's county.

(F) In the case of casual sales of watercraft or outboard motors that are subject to the tax imposed by Chapter 5739. or 5741. of the Revised Code, the purchase price for the purpose of determining the tax shall be the purchase price on an affidavit executed and filed with the clerk by the vendor on a form to be prescribed by the chief, which shall be prima-facie evidence of the price for the determination of the tax. In addition to the information required by section 1548.08 of the Revised Code, each certificate of title shall contain in bold lettering the following notification and statements: "WARNING TO TRANSFEROR AND TRANSFEREE (SELLER AND BUYER). You are required by law to state the true selling price. A false statement is a violation of section 2921.13 of the Revised Code and is punishable by six months imprisonment or a fine of up to one thousand dollars, or both. All transfers are audited by the department of taxation. The seller and buyer must provide any information requested by the department of taxation. The buyer may be assessed any additional tax found to be due."

(G) Each county clerk of courts shall forward to the treasurer of state all sales and use tax collections resulting from sales of titled watercraft and outboard motors during a calendar week on or before the Friday following the close of that week. If, on any Friday, the offices of the clerk of courts or the state are not open for business, the tax shall be forwarded to the treasurer of state on or before the next day on which the offices are open. Every remittance of tax under this division shall be accompanied by a remittance report in such form as the tax commissioner prescribes. Upon receipt of a tax remittance and remittance report, the treasurer of state shall date stamp the report and forward it to the tax commissioner. If the tax due for any week is not remitted by a clerk of courts as required under this division, the clerk shall forfeit the poundage fees for the sales made during that week. The treasurer of state may require the clerks of courts to transmit tax collections and remittance reports electronically.

(H) For purposes of a transfer of a certificate of title, if the clerk is satisfied that a secured party has discharged a lien but has not canceled the lien notation with a clerk, the clerk may cancel the lien notation on the automated title processing system and notify the clerk of the county of origin.

(I) Every clerk shall have the capability to transact by electronic means all procedures and transactions relating to the issuance of watercraft or outboard motor certificates of title that are described in the Revised Code as being accomplished by electronic means.

Sec. 1548.061. Notwithstanding any general requirement in this chapter to the effect that an application for a certificate of title to a watercraft or outboard motor shall be "sworn to" or shall be "sworn to before a notary public or other officer empowered to administer oaths," that requirement shall apply only in the case of a transfer of a watercraft or outboard motor between parties in the course of a sale by a person other than a registered watercraft dealer, as defined in section ~~1547.01~~ 1546.01 of the Revised Code, to a person who purchases the watercraft or outboard motor for use as a consumer.

Sec. 1548.07. (A) An application for a certificate of title shall be sworn to before a notary public or other officer empowered to administer oaths by the lawful owner or purchaser of the watercraft or outboard motor and shall contain the following information in the form and together with any other information that the chief of the division of parks and watercraft may require:

(1) Name, address, and social security number or employer's tax identification number of the applicant;

(2) Statement of how the watercraft or outboard motor was acquired;

(3) Name and address of the previous owner;

(4) A statement of all liens, mortgages, or other encumbrances on the watercraft or outboard motor, including a description of the nature and amount of each lien, mortgage, or encumbrance, and the name and address of each holder of the lien, mortgage, or encumbrance;

(5) If there are no outstanding liens, mortgages, or other encumbrances, a statement of that fact;

(6) A description of the watercraft, including the make, year, length, series or model, if any, body type, and hull identification number or serial number; or a description of the outboard motor, including the make, year, series or model, if any, manufacturer's serial number, and horsepower;

(7) The purchase price, trade-in allowed, and amount of sales or use tax paid under Chapter 5739. or 5741. of the Revised Code.

(B) If the application is made by two persons regarding a watercraft or outboard motor in which they wish to establish joint ownership with right of survivorship, they may do so as provided in section 2131.12 of the Revised Code.

(C) If the applicant wishes to designate a watercraft or outboard motor in beneficiary form, the applicant may do so as provided in section 2131.13 of the Revised Code.

(D) If the watercraft or outboard motor contains a permanent identification number placed on the watercraft or outboard motor by the

manufacturer, this number shall be used as the serial number or hull identification number. If there is no manufacturer's identification number, or if the manufacturer's identification number has been removed or obliterated, the chief, upon receipt of a prescribed application and proof of ownership, may assign an identification number for the watercraft or outboard motor, and this number shall be permanently affixed or imprinted by the applicant, at the place and in the manner designated by the chief, upon the watercraft or outboard motor for which it is assigned.

Sec. 1548.08. (A) When the clerk of a court of common pleas issues a physical certificate of title for a watercraft or outboard motor, the clerk shall issue it over the clerk's official seal. All physical certificates of title to watercraft or outboard motors shall contain the information required in the application for them as prescribed by section 1548.07 of the Revised Code, as well as spaces for the dates of notation and cancellation of each lien, mortgage, or encumbrance, over the signature of the clerk. If any certificate of title is issued for a watercraft or outboard motor in which two persons are establishing joint ownership with right of survivorship under section 2106.17 of the Revised Code, the certificate, in addition to the information required by this section, shall show that the two persons have established joint ownership with right of survivorship in the watercraft or outboard motor.

An assignment of certificate of title before a notary public or other officer empowered to administer oaths shall appear on the reverse side of each physical certificate of title in the form to be prescribed by the chief of the division of parks and watercraft. The assignment form shall include a warranty that the signer is the owner of the watercraft or outboard motor and that there are no mortgages, liens, or encumbrances on the watercraft or outboard motor except as are noted on the face of the certificate of title.

(B) An electronic certificate of title is an electronic record stored in the automated title processing system that establishes ownership of a watercraft or outboard motor, as well as any security interests that exist in that watercraft or outboard motor.

Sec. 1548.09. When the clerk of a court of common pleas issues a physical certificate of title, the clerk shall issue the certificate of title on a form and in a manner prescribed by the chief of the division of parks and watercraft. The clerk shall file a copy of the physical evidence for the creation of the certificate of title in a manner prescribed by the chief of the division of ~~watercraft~~. A clerk may retain digital images of documents used as evidence for issuance of a certificate of title. Certified printouts of documents retained as digital images shall have the same evidentiary value

as the original physical documents. The record of the issuance of the certificate of title shall be maintained in the automated title processing system. The clerk shall sign and affix the clerk's seal to the original certificate of title and, if there are no liens on the watercraft or outboard motor, shall deliver the certificate to the applicant. If there are one or more liens on the watercraft or outboard motor, the clerk shall deliver the certificate of title to the holder of the first lien.

The chief shall approve a uniform method of numbering certificates of title. The numbering shall be in such manner that the county of issuance is indicated. Numbers shall be assigned to certificates of title in the manner approved by the chief. The clerk shall file all certificates of title according to policies prescribed by the chief, and the clerk shall maintain in the clerk's office indexes for the certificates of title.

The clerk need not retain on file any certificate of title, duplicate certificate of title, or memorandum certificate of title, or supporting evidence of them, covering any watercraft or outboard motor for a period longer than seven years after the date of its filing; thereafter, the certificate and supporting information may be destroyed. The clerk shall issue a duplicate title, when duly applied for, of any title that has been destroyed as provided in this section.

The clerk shall issue a physical certificate of title to an applicant unless the applicant specifically requests the clerk not to issue a physical certificate of title and instead to issue an electronic certificate of title. The fact that a physical certificate of title is not issued for a watercraft or outboard motor does not affect ownership of the watercraft or outboard motor. In that case, when the clerk completes the process of entering certificate of title application information into the automated title processing system, the effect of the completion of the process is the same as if the clerk actually issued a physical certificate of title for the watercraft or outboard motor.

Sec. 1548.10. (A) The clerk of the court of common pleas shall charge and retain fees as follows:

(1) Fifteen dollars for each duplicate copy of a certificate of title. The clerk shall retain that entire fee.

(2) Fifteen dollars for each certificate of title, which shall include any notation or indication of any lien or security interest on a certificate of title and any memorandum certificate of title or non-negotiable evidence of ownership requested at the time the certificate of title is issued. The clerk shall retain ten dollars and fifty cents of that fee when there is a notation of a lien or security interest on the certificate of title and twelve dollars when there is no lien or security interest noted on the certificate of title.

(3) Five dollars for each certificate of title with no security interest noted that is issued to a licensed watercraft dealer for resale purposes. The clerk shall retain two dollars of that fee.

(4) Five dollars for each memorandum certificate of title or non-negotiable evidence of ownership that is applied for separately. The clerk shall retain that entire fee.

(B) The fees charged for a certificate of title and the notation or indication of any lien or security interest on a certificate of title that are not retained by the clerk shall be paid to the chief of the division of parks and watercraft by monthly returns, which shall be forwarded to the chief not later than the fifth day of the month next succeeding that in which the certificate is forwarded, or that in which the chief is notified of a lien or security interest or cancellation of a lien or security interest.

The chief shall deposit one dollar of the amount the chief receives for each certificate of title in the automated title processing fund created in section 4505.09 of the Revised Code. Moneys deposited in that fund under this section shall be used for the purpose specified in division (B)(3)(b) of that section.

Sec. 1548.11. (A) In the event of the transfer of ownership of a watercraft or outboard motor by operation of law, as upon inheritance, devise, bequest, order in bankruptcy, insolvency, replevin, or execution of sale, or whenever the engine of a watercraft is replaced by another engine, a watercraft or outboard motor is sold to satisfy storage or repair charges, or repossession is had upon default in performance of the terms of a security agreement as provided in Chapter 1309. of the Revised Code, a clerk of a court of common pleas, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or, when that is not possible, upon presentation of satisfactory proof to the clerk of ownership and rights of possession to the watercraft or outboard motor, and upon payment of the fee prescribed in section 1548.10 of the Revised Code and presentation of an application for certificate of title, may issue to the applicant a certificate of title to the watercraft or outboard motor. Only an affidavit by the person or agent of the person to whom possession of the watercraft or outboard motor has passed, setting forth the facts entitling the person to possession and ownership, together with a copy of the journal entry, court order, or instrument upon which the claim of possession and ownership is founded, is satisfactory proof of ownership and right of possession. If the applicant cannot produce such proof of ownership, the applicant may apply directly to the chief of the division of parks and watercraft and submit such evidence as the applicant has, and the chief, if the chief finds the evidence sufficient,

may authorize the clerk to issue a certificate of title. If the chief finds the evidence insufficient, the applicant may petition the court of common pleas for a court order ordering the clerk to issue a certificate of title. The court shall grant or deny the petition based on the sufficiency of the evidence presented to the court. If, from the records in the office of the clerk, there appears to be any lien on the watercraft or outboard motor, the certificate of title shall contain a statement of the lien unless the application is accompanied by proper evidence of its extinction.

(B) Upon the death of one of the persons who have established joint ownership with right of survivorship under section 2131.12 of the Revised Code in a watercraft or outboard motor and the presentation to the clerk of the title and the certificate of death of the deceased person, the clerk shall enter into the records the transfer of the watercraft or outboard motor to the surviving person, and the title to the watercraft or outboard motor immediately passes to the surviving person. The transfer does not affect any liens on the watercraft or outboard motor.

(C) The clerk shall transfer a decedent's interest in one watercraft, one watercraft trailer, one outboard motor, or one of each to the decedent's surviving spouse as provided in section 2106.19 of the Revised Code.

(D) Upon the death of an owner of a watercraft or outboard motor designated in beneficiary form under section 2131.13 of the Revised Code, upon application of the transfer-on-death beneficiary or beneficiaries designated pursuant to that section, and upon presentation to the clerk of the certificate of title and the certificate of death of the deceased owner, the clerk shall transfer the watercraft or outboard motor and issue a certificate of title to the transfer-on-death beneficiary or beneficiaries. The transfer does not affect any liens upon any watercraft or outboard motor so transferred.

Sec. 1548.12. Each owner of a watercraft or outboard motor and each person mentioned as owner in the last certificate of title, when the watercraft or outboard motor is dismantled, destroyed, or changed in such manner that it loses its character as a watercraft or outboard motor, or changed in such manner that it is not the watercraft or outboard motor described in the certificate of title, shall surrender the certificate of title to a clerk of a court of common pleas, and the clerk, with the consent of any holders of any liens noted on the certificate of title, then shall enter a cancellation upon the clerk's records and shall notify the chief of the division of parks and watercraft of the cancellation.

Upon the cancellation of a certificate of title in the manner prescribed by this section, the clerk and the chief may cancel and destroy all certificates and all memorandum certificates in that chain of title.

Sec. 1548.13. In the event of a lost or destroyed certificate of title, application shall be made to a clerk of a court of common pleas by the owner of the watercraft or outboard motor, or the holder of a lien on it, for a certified copy of the certificate upon a form prescribed by the chief of the division of parks and watercraft and accompanied by the fee prescribed by section 1548.10 of the Revised Code. The application shall be signed and sworn to by the person making the application, and the clerk shall issue a certified copy of the certificate of title to the person entitled to receive it under this chapter. The certified copy shall be plainly marked across its face with the word "duplicate," and any subsequent purchaser of the watercraft or outboard motor in the chain of title originating through the certified copy acquires only such rights in the watercraft or outboard motor as the original holder of the certified copy had. Any purchaser of the watercraft or outboard motor, at the time of purchase, may require the seller to indemnify the purchaser and all subsequent purchasers of the watercraft or outboard motor against any loss that the purchaser or any subsequent purchaser may suffer by reason of any claim presented upon the original certificate. In the event of the recovery of the original certificate of title by the owner, the owner shall surrender it immediately to a clerk for cancellation.

The holder of a certificate of title for a watercraft or outboard motor upon which is noted an existing lien, encumbrance, or mortgage may apply at any time to a clerk for a memorandum certificate, on a form prescribed by the chief, that is signed and sworn to by the applicant. Upon receipt of the application together with the fee prescribed by section 1548.10 of the Revised Code, and if the application appears to be regular, the clerk shall issue to the applicant a memorandum certificate for the watercraft or outboard motor. If the memorandum certificate is lost or destroyed, the holder of it may obtain a certified copy of it by applying for the copy on a form prescribed by the chief, accompanied by the fee prescribed in section 1548.10 of the Revised Code. In the event of the recovery of the original memorandum certificate by the owner, the owner shall surrender it immediately to a clerk for cancellation. Such a memorandum certificate is not assignable and constitutes no evidence of title or of right to transfer or encumber the watercraft or outboard motor described in it.

The owner of a watercraft or outboard motor may apply at any time to a clerk for a non-negotiable evidence of ownership for the watercraft or outboard motor.

Sec. 1548.14. The chief of the division of parks and watercraft, upon the application of any person and payment of the proper fees, may prepare and furnish title information in such form and subject to such territorial division



or other classification as ~~he~~ the chief may direct. The chief may search the records of the division of parks and watercraft and make reports thereof, and make photographic copies of the division records and attestations thereof.

Fees therefor shall be charged and collected as follows:

(A) For searches of the records and reports thereof, two dollars for each name, number, or fact reported on;

(B) For photographic copies of records and attestations thereof, under the signature of the chief, two dollars per copy.

Such copies shall be taken as prima-facie evidence of the facts therein stated in any court of the state. The chief and the clerk of the court of common pleas shall furnish information on any title without charge to state highway patrol troopers, sheriffs, or chiefs of police.

Fees collected as provided in this section shall be received by the chief.

Sec. 1548.141. The chief of the division of parks and watercraft shall enable the public to access watercraft and outboard motor title information via electronic means. No fee shall be charged for this access. The title information that must be so accessible is only the title information that is in an electronic format at the time a person requests this access.

The chief shall establish procedures governing this access. The procedures may be established by rule in accordance with Chapter 119. of the Revised Code. In adopting these procedures, the chief shall confer with the clerks of the courts of common pleas.

Access by the public to watercraft and outboard motor title information under this section shall comply with all restrictions contained in the Revised Code and federal law that govern the disclosure of that information.

Sec. 1548.15. Manufacturers and importers shall appoint and authorize agents who shall sign manufacturer's or importer's certificates. The chief of the division of parks and watercraft may require that a certified copy of a list containing the names and the facsimile signatures of the authorized agents be furnished ~~him~~ to the chief and be forwarded to each clerk of the court of common pleas in the respective counties within the state, and the chief may prescribe the form of authorization to be used by manufacturers or importers and the method of certification of the names of said agents.

Sec. 1548.17. Every peace officer, sheriff, ~~watercraft officer, division of parks and recreation~~ natural resources officer, division of wildlife officer, conservancy district officer, constable, or state highway patrol trooper, having knowledge of a stolen watercraft or outboard motor, shall immediately furnish the chief of the division of parks and watercraft with full information concerning the theft.

The chief, whenever a report of the theft or conversion of a watercraft or

outboard motor is received, shall make a distinctive record of it, including the make of the stolen watercraft or outboard motor and its manufacturer's or assigned serial number, and shall file the record in the numerical order of the manufacturer's or assigned serial number with the index records of the watercraft or outboard motors of such make. The chief shall prepare a report listing watercraft and outboard motors stolen and recovered as disclosed by the reports submitted to the chief, to be distributed as the chief deems advisable.

If, under section 1548.02 of the Revised Code, the chief learns of the issuance of a certificate of title to such a watercraft or outboard motor, the chief shall immediately notify the rightful owner of the watercraft or outboard motor and the clerk who issued the certificate of title, and if, upon investigation, it appears that the certificate of title was improperly issued, the chief shall immediately cancel it.

In the event of the recovery of a stolen or converted watercraft or outboard motor, the owner shall immediately notify the chief, who shall remove the record of the theft or conversion from the chief's file.

Sec. 1548.18. No person shall do any of the following:

(A) Operate in this state a watercraft for which a certificate of title is required or a watercraft powered by an outboard motor for which a certificate of title is required without having the certificate, or a valid temporary permit and number, in accordance with this chapter or, if a physical certificate of title has not been issued for it, operate the watercraft or outboard motor in this state knowing that the ownership information relating to the watercraft or outboard motor has not been entered into the automated title processing system by a clerk of a court of common pleas;

(B) Operate in this state a watercraft for which a certificate of title is required or a watercraft powered by an outboard motor for which a certificate of title is required upon which the certificate of title has been canceled;

(C) Fail to surrender any certificate of title upon cancellation of it by the chief of the division of parks and watercraft and notice of the cancellation as prescribed in this chapter;

(D) Fail to surrender the certificate of title to a clerk of a court of common pleas as provided in this chapter, in case of the destruction or dismantling or change of a watercraft or outboard motor in such respect that it is not the watercraft or outboard motor described in the certificate of title;

(E) Violate any provision of this chapter for which no penalty is otherwise provided, or any lawful rules adopted pursuant to this chapter;

(F) Operate in this state a watercraft or outboard motor knowing that the

certificate of title to or ownership of the watercraft or outboard motor as otherwise reflected in the automated title processing system has been canceled.

Sec. 1548.20. (A) Chapter 1309. of the Revised Code does not permit or require the deposit, filing, or other record of a security interest covering a watercraft or outboard motor for which a certificate of title is required. Any security agreement covering a security interest in a watercraft or outboard motor, if it is accompanied by delivery of a manufacturer's or importer's certificate and followed by actual and continued possession of that certificate by the holder of the instrument, or, in the case of a certificate of title, if a notation of the security agreement has been made by a clerk of a court of common pleas on the face of the certificate of title or the clerk has entered a notation of the agreement into the automated title processing system and a physical certificate of title for the watercraft or outboard motor has not been issued, shall be valid as against the creditors of the debtor, whether armed with process or not, and against subsequent purchasers, secured parties, and other lienholders or claimants. All security interests, liens, mortgages, and encumbrances entered into the automated title processing system in relation to a particular certificate of title, regardless of whether a physical certificate of title is issued, take priority according to the order of time in which they are entered into the automated title processing system by the clerk. Exposure for sale of any watercraft or outboard motor by its owner, with the knowledge or with the knowledge and consent of the holder of any security interest, lien, mortgage, or encumbrance on the watercraft or outboard motor, shall not render the security interest lien, mortgage, or encumbrance ineffective as against the creditors of the owner or against holders of subsequent security interests, liens, mortgages, or encumbrances upon the watercraft or outboard motor.

(B) If a secured party presents evidence of the security interest to a clerk of a court of common pleas together with the certificate of title, if a physical certificate of title for the watercraft or outboard motor exists, and the fee prescribed by section 1548.10 of the Revised Code, the clerk, unless the secured party specifically requests the clerk not to issue a physical certificate of title, shall issue a new original certificate of title from the automated title processing records. The new certificate shall indicate the security interest and the date of the security interest. The clerk also shall note the security interest and its date in the clerk's files and enter that information into the automated title processing system, and on that day shall notify the chief of the division of parks and watercraft. The clerk shall indicate by appropriate notation on the security agreement itself the fact that

the security interest has been noted on the certificate of title.

(C) If a security interest is fully discharged as a result of its holder's receipt of good funds in the correct amount and if the holder holds a physical certificate of title, the holder shall note the discharge of the security interest over the holder's signature on the face of the certificate of title, or, if there is not sufficient space for the notation on the face of the certificate of title, the holder shall note the discharge over the holder's signature on a form prescribed by the chief. Except as otherwise provided in this section, prior to delivering the certificate of title to the owner, the holder or the holder's agent shall convey the certificate of title or a separate sworn statement of the discharge of the security interest and any additional information the chief requires to a clerk. The conveyance shall occur not more than seven business days after the date good funds in the correct amount to fully discharge the security interest have been credited to an account of the holder, provided the holder has been provided accurate information concerning the watercraft or outboard motor. Conveyance of the certificate of title or separate sworn statement of the discharge within the required seven business days may be indicated by postmark or receipt by a clerk within that period. If the discharge of the security interest appears to be genuine, the clerk shall note the discharge of the security interest on the face of the certificate of title, if it was so conveyed, and note it in the automated title processing system.

If a security interest is fully discharged as a result of its holder's receipt of good funds in the correct amount and the holder does not hold a physical certificate of title, when the holder notifies a clerk of the discharge of its security interest, the holder at that time also may request the clerk to issue a physical certificate of title to the watercraft or outboard motor. The request shall specify whether the clerk is to send the certificate of title directly to the owner or to the holder or the holder's agent for transmission to the owner. If such a request is made, the clerk shall issue a physical certificate of title and send it to the specified person.

The clerk shall not honor such a request for a physical certificate of title if it is not made by the holder at the same time as the holder's notification to the clerk of the discharge of its security interest.

(D)(1) In all cases, a secured party may choose to present a clerk with evidence of a security interest via electronic means, and the clerk shall enter the security interest into the automated title processing system. A secured party also may choose to notify a clerk of the discharge of its security interest via electronic means, and the clerk shall enter the cancellation into the automated title processing system.

(2) In the case of a security interest that is being satisfied by a watercraft dealer to whom a certificate of title is being transferred, the cancellation of the security interest shall occur during the course of the transfer. The dealer shall submit a discharge request to the secured party. A discharge request shall include good funds in the correct amount to fully discharge the security interest and accurate information concerning the watercraft or outboard motor.

(3)(a) Upon receiving a discharge request that complies with division (D)(2) of this section, except as otherwise provided in this division, a secured party shall convey the certificate of title, with the discharge of the security interest noted on its face, to the dealer within seven business days after the date good funds in the correct amount to fully discharge the security interest have been credited to an account of the secured party.

If a secured party is unable to convey to the dealer a certificate of title within the required seven business days, the secured party instead shall convey to the dealer an affidavit stating that the security interest has been discharged, together with payment for a duplicate certificate of title, within that period.

(b) Conveyance of a certificate of title, or affidavit and required payment, from a secured party to a dealer under the circumstances described in division (D)(3)(a) of this section within the required seven business days may be indicated by a postmark within that period.

(4) A secured party is liable to a dealer for a late fee of ten dollars per day for each certificate of title, or affidavit and required payment, conveyed to the dealer more than seven business days but less than twenty-one days after the date specified in division (D)(3)(a) of this section and, from then on, twenty-five dollars per day until the certificate of title, or affidavit and required payment, are conveyed to the dealer.

(E) If a physical certificate of title has not been issued for a watercraft or outboard motor and all the security interests relating to that watercraft or outboard motor have been discharged, the owner of the watercraft or outboard motor may obtain a physical certificate of title from the clerk of any court of common pleas upon payment of the fee specified in section 1548.10 of the Revised Code.

(F) If a clerk of a court of common pleas, other than the clerk of the court of common pleas of the county in which the owner of a watercraft or outboard motor resides, enters a notation of the existence of, or the cancellation of, a security interest relating to the watercraft or outboard motor, the clerk shall transmit the data relating to the notation to the automated title processing system.

(G) The electronic transmission of security interest and other information under this section shall comply with rules adopted by the registrar of motor vehicles under section 4505.13 of the Revised Code.

(H) As used in this section:

(1) "Accurate information" means the serial number of the watercraft or outboard motor, if any; the make and model of the watercraft or outboard motor; and the name and address of the owner of the watercraft or outboard motor as they appear on the certificate of title that is to be conveyed.

(2) "Good funds" has the same meaning as in section 4505.13 of the Revised Code.

(3) "Watercraft dealer" has the same meaning as in section ~~1547.01~~ 1546.01 of the Revised Code.

Sec. 1548.22. The chief of the division of parks and watercraft, after deducting the necessary and actual expenses incurred by the division in administering Chapter 1548. of the Revised Code, shall pay to the treasurer of state to the credit of the waterways safety fund the fees received by ~~him~~ the chief under sections 1548.10 and 1548.14 of the Revised Code.

Sec. 1557.06. (A) The parks and natural resources local assistance grant program is hereby established to provide grants to local government entities for capital improvements for the acquisition, construction, reconstruction, expansion, improvement, planning, and equipping of capital projects that enhance the use and enjoyment of natural resources by individuals. Such projects include, but are not limited to, the acquisition of lands, facilities, and waters for public recreation, or for the preservation of wetlands or unique habitats; the development, construction, reconstruction, expansion, or rehabilitation of recreation areas and facilities; and projects to provide public park and recreation opportunities by improving public access or safety. Grants shall not be awarded for administrative, operating, or maintenance costs; or for areas, facilities, or structures for athletics, arts, historic sites, or other purposes, that are not used primarily for public recreation.

The director of natural resources shall administer the parks and natural resources local assistance grant program in accordance with procedures and criteria that the director shall develop with the approval of the recreation and resources council created in section 1501.04 of the Revised Code.

(B) Grants awarded under this section may provide up to seventy-five per cent of the total project costs approved by the director. At least twenty per cent of such costs must be provided by the grant recipient from nonstate, nonfederal sources. Local government entities may apply for grants individually or jointly.

(C) The criteria developed for the administration of the program shall require a local government entity receiving a grant for a project under this section to have sufficient real property interests in the project for the purposes of the obligations issued under this chapter, and shall require that the projects be retained and used in a manner consistent with the purposes of Section 21 of Article VIII, Ohio Constitution.

(D) The director shall allocate to each county a portion of the proceeds of the first two hundred million dollars principal amount in obligations issued under this chapter, for projects of local government entities within each county. The director shall determine each county's allocation by calculating both of the following for each county:

- (1) Its per capita share of forty million dollars;
- (2) Its per capita share of thirty million dollars plus one hundred thirteen thousand six hundred thirty-six dollars.

The larger of the amount calculated under division (D)(1) or (2) of this section for each county shall be that county's allocation, and whatever percentage of the first two hundred million dollars principal amount in obligations issued under this chapter that is necessary to satisfy the requirements of division (D) of this section, shall be so allocated.

(E) The director shall allocate to each county a portion of twenty per cent of the proceeds in excess of the first two hundred million dollars principal amount in obligations issued under this chapter, for projects of local government entities within each county. The director shall determine each county's allocation by calculating both of the following and combining the amounts calculated for each county:

- (1) One-third of twenty per cent of the proceeds to be divided equally among all of the counties;
- (2) Two-thirds of twenty per cent of the proceeds to be distributed on a per capita basis to each county.

(F) Any moneys granted under division (E) of this section and not obligated within a county after two funding cycles, at the discretion of the director, shall be reallocated to projects either in the county to which they originally were allocated or in other counties demonstrating a need for the funds.

Sec. 2905.05. (A) No person, by any means and without privilege to do so, shall knowingly solicit, coax, entice, or lure any child under fourteen years of age to accompany the person in any manner, including entering into any vehicle or onto any vessel, whether or not the offender knows the age of the child, if both of the following apply:

- (1) The actor does not have the express or implied permission of the

parent, guardian, or other legal custodian of the child in undertaking the activity.

(2) The actor is not a law enforcement officer, medic, firefighter, or other person who regularly provides emergency services, and is not an employee or agent of, or a volunteer acting under the direction of, any board of education, or the actor is any of such persons, but, at the time the actor undertakes the activity, the actor is not acting within the scope of the actor's lawful duties in that capacity.

(B) No person, with a sexual motivation, shall violate division (A) of this section.

(C) No person, for any unlawful purpose other than, or in addition to, that proscribed by division (A) of this section, shall engage in any activity described in division (A) of this section.

(D) It is an affirmative defense to a charge under division (A) of this section that the actor undertook the activity in response to a bona fide emergency situation or that the actor undertook the activity in a reasonable belief that it was necessary to preserve the health, safety, or welfare of the child.

(E) Whoever violates division (A), (B), or (C) of this section is guilty of criminal child enticement, a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, section 2907.02 or 2907.03 or former section 2907.12 of the Revised Code, or section 2905.01 or 2907.05 of the Revised Code when the victim of that prior offense was under seventeen years of age at the time of the offense, criminal child enticement is a felony of the fifth degree.

(F) As used in this section:

(1) "Sexual motivation" has the same meaning as in section 2971.01 of the Revised Code.

(2) "Vehicle" has the same meaning as in section 4501.01 of the Revised Code.

(3) "Vessel" has the same meaning as in section ~~1547.01~~ 1546.01 of the Revised Code.

Sec. 2909.09. (A) As used in this section:

(1) "Highway" means any highway as defined in section 4511.01 of the Revised Code or any lane, road, street, alley, bridge, or overpass.

(2) "Alley," "street," "streetcar," "trackless trolley," and "vehicle" have the same meanings as in section 4511.01 of the Revised Code.

(3) "Vessel" and "waters in this state" have the same meanings as in section ~~1547.01~~ 1546.01 of the Revised Code.

(B) No person shall knowingly, and by any means, drop or throw any



object at, onto, or in the path of any of the following:

- (1) Any vehicle, streetcar, or trackless trolley on a highway;
- (2) Any boat or vessel on any of the waters in this state.

(C) Whoever violates this section is guilty of vehicular vandalism. Except as otherwise provided in this division, vehicular vandalism is a misdemeanor of the first degree. Except as otherwise provided in this division, if the violation of this section creates a substantial risk of physical harm to any person or the violation of this section causes serious physical harm to property, vehicular vandalism is a felony of the fourth degree. Except as otherwise provided in this division, if the violation of this section causes physical harm to any person, vehicular vandalism is a felony of the third degree. If the violation of this section causes serious physical harm to any person, vehicular vandalism is a felony of the second degree.

Sec. 2930.01. As used in this chapter:

(A) "Crime" means any of the following:

- (1) A felony;
- (2) A violation of section 2903.05, 2903.06, 2903.13, 2903.21, 2903.211, 2903.22, 2907.06, 2919.25, or 2921.04 of the Revised Code, a violation of section 2903.07 of the Revised Code as it existed prior to March 23, 2000, or a violation of a substantially equivalent municipal ordinance;

(3) A violation of division (A) or (B) of section 4511.19, division (A) or (B) of section 1547.11, or division (A)(3) of section 4561.15 of the Revised Code or of a municipal ordinance substantially similar to any of those divisions that is the proximate cause of a vehicle, streetcar, trackless trolley, aquatic device, or aircraft accident in which the victim receives injuries for which the victim receives medical treatment either at the scene of the accident by emergency medical services personnel or at a hospital, ambulatory care facility, physician's office, specialist's office, or other medical care facility.

(4) A motor vehicle accident to which both of the following apply:

(a) The motor vehicle accident is caused by a violation of a provision of the Revised Code that is a misdemeanor of the first degree or higher.

(b) As a result of the motor vehicle accident, the victim receives injuries for which the victim receives medical treatment either at the scene of the accident by emergency medical services personnel or at a hospital, ambulatory care facility, physician's office, specialist's office, or other medical care facility.

(B) "Custodial agency" means one of the following:

- (1) The entity that has custody of a defendant or an alleged juvenile offender who is incarcerated for a crime, is under detention for the

commission of a specified delinquent act, or who is detained after a finding of incompetence to stand trial or not guilty by reason of insanity relative to a crime, including any of the following:

(a) The department of rehabilitation and correction or the adult parole authority;

(b) A county sheriff;

(c) The entity that administers a jail, as defined in section 2929.01 of the Revised Code;

(d) The entity that administers a community-based correctional facility and program or a district community-based correctional facility and program;

(e) The department of mental health and addiction services or other entity to which a defendant found incompetent to stand trial or not guilty by reason of insanity is committed.

(2) The entity that has custody of an alleged juvenile offender pursuant to an order of disposition of a juvenile court, including the department of youth services or a school, camp, institution, or other facility operated for the care of delinquent children.

(C) "Defendant" means a person who is alleged to be the perpetrator of a crime in a police report or in a complaint, indictment, or information that charges the commission of a crime and that provides the basis for the criminal prosecution and subsequent proceedings to which this chapter makes reference.

(D) "Member of the victim's family" means a spouse, child, stepchild, sibling, parent, stepparent, grandparent, or other relative of a victim but does not include a person who is charged with, convicted of, or adjudicated to be a delinquent child for the crime or specified delinquent act against the victim or another crime or specified delinquent act arising from the same conduct, criminal episode, or plan.

(E) "Prosecutor" means one of the following:

(1) With respect to a criminal case, it has the same meaning as in section 2935.01 of the Revised Code and also includes the attorney general and, when appropriate, the employees of any person listed in section 2935.01 of the Revised Code or of the attorney general.

(2) With respect to a delinquency proceeding, it includes any person listed in division (C) of section 2935.01 of the Revised Code or an employee of a person listed in that division who prosecutes a delinquency proceeding.

(F) "Public agency" means an office, agency, department, bureau, or other governmental entity of the state or of a political subdivision of the state.

(G) "Public official" has the same meaning as in section 2921.01 of the Revised Code.

(H) "Victim" means either of the following:

(1) A person who is identified as the victim of a crime or specified delinquent act in a police report or in a complaint, indictment, or information that charges the commission of a crime and that provides the basis for the criminal prosecution or delinquency proceeding and subsequent proceedings to which this chapter makes reference.

(2) A person who receives injuries as a result of a vehicle, streetcar, trackless trolley, aquatic device, or aircraft accident that is proximately caused by a violation described in division (A)(3) of this section or a motor vehicle accident that is proximately caused by a violation described in division (A)(4) of this section and who receives medical treatment as described in division (A)(3) or (4) of this section, whichever is applicable.

(I) "Victim's representative" means a member of the victim's family or another person who pursuant to the authority of section 2930.02 of the Revised Code exercises the rights of a victim under this chapter.

(J) "Court" means a court of common pleas, juvenile court, municipal court, or county court.

(K) "Delinquency proceeding" means all proceedings in a juvenile court that are related to a case in which a complaint has been filed alleging that a child is a delinquent child.

(L) "Case" means a delinquency proceeding and all related activity or a criminal prosecution and all related activity.

(M) The "defense" means the defense against criminal charges in a criminal prosecution or the defense against a delinquent child complaint in a delinquency proceeding.

(N) The "prosecution" means the prosecution of criminal charges in a criminal prosecution or the prosecution of a delinquent child complaint in a delinquency proceeding.

(O) "Specified delinquent act" means any of the following:

(1) An act committed by a child that if committed by an adult would be a felony;

(2) An act committed by a child that is a violation of a section listed in division (A)(1) or (2) of this section or is a violation of a substantially equivalent municipal ordinance;

(3) An act committed by a child that is described in division (A)(3) or (4) of this section.

(P)(1) "Alleged juvenile offender" means a child who is alleged to have committed a specified delinquent act in a police report or in a complaint in

juvenile court that charges the commission of a specified delinquent act and that provides the basis for the delinquency proceeding and all subsequent proceedings to which this chapter makes reference.

(2) As used in divisions (O) and (P)(1) of this section, "child" has the same meaning as in section 2151.011 of the Revised Code.

(Q) "Motor vehicle accident" means any accident involving a motor vehicle.

(R) "Motor vehicle" has the same meaning as in section 4509.01 of the Revised Code.

(S) "Aircraft" has the same meaning as in section 4561.01 of the Revised Code.

(T) "Aquatic device" means any vessel, or any water skis, aquaplane, or similar device.

(U) "Vehicle," "streetcar," and "trackless trolley" have the same meanings as in section 4511.01 of the Revised Code.

(V) "Vehicle, streetcar, trackless trolley, aquatic device, or aircraft accident" means any accident involving a vehicle, streetcar, trackless trolley, aquatic device, or aircraft.

(W) "Vessel" has the same meaning as in section ~~1547.01~~ 1546.01 of the Revised Code.

Sec. 2935.01. As used in this chapter:

(A) "Magistrate" has the same meaning as in section 2931.01 of the Revised Code.

(B) "Peace officer" includes, except as provided in section 2935.081 of the Revised Code, a sheriff; deputy sheriff; marshal; deputy marshal; member of the organized police department of any municipal corporation, including a member of the organized police department of a municipal corporation in an adjoining state serving in Ohio under a contract pursuant to section 737.04 of the Revised Code; member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code; member of a police force employed by a regional transit authority under division (Y) of section 306.05 of the Revised Code; state university law enforcement officer appointed under section 3345.04 of the Revised Code; enforcement agent of the department of public safety designated under section 5502.14 of the Revised Code; employee of the department of taxation to whom investigation powers have been delegated under section 5743.45 of the Revised Code; employee of the department of natural resources who is a natural resources law enforcement staff officer designated pursuant to section 1501.013 of the Revised Code, a ~~forest officer designated~~ forest-fire investigator appointed pursuant to section

~~1503.29~~ 1503.09 of the Revised Code, a ~~preserve natural resources~~ officer ~~designated~~ appointed pursuant to section ~~1517.10~~ 1501.24 of the Revised Code, or a wildlife officer designated pursuant to section 1531.13 of the Revised Code, ~~a park officer designated pursuant to section 1541.10 of the Revised Code, or a state watercraft officer designated pursuant to section 1547.521 of the Revised Code;~~ individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code; veterans' home police officer appointed under section 5907.02 of the Revised Code; special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code; police constable of any township; police officer of a township or joint police district; a special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of transportation as provided in Parts 1542. and 1544. of Title 49 of the Code of Federal Regulations, as amended; the house of representatives sergeant at arms if the house of representatives sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code; an assistant house of representatives sergeant at arms; the senate sergeant at arms; an assistant senate sergeant at arms; officer or employee of the bureau of criminal identification and investigation established pursuant to section 109.51 of the Revised Code who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the officer's or employee's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program and who is providing assistance upon request to a law enforcement officer or emergency assistance to a peace officer pursuant to section 109.54 or 109.541 of the Revised Code; a state fire marshal law enforcement officer described in division (A)(23) of section 109.71 of the Revised Code; and, for the purpose of arrests within those areas, for the purposes of Chapter 5503. of the Revised Code, and the filing of and service of process relating to those offenses witnessed or investigated by them, the superintendent and troopers of the state highway patrol.

(C) "Prosecutor" includes the county prosecuting attorney and any assistant prosecutor designated to assist the county prosecuting attorney, and, in the case of courts inferior to courts of common pleas, includes the village solicitor, city director of law, or similar chief legal officer of a

municipal corporation, any such officer's assistants, or any attorney designated by the prosecuting attorney of the county to appear for the prosecution of a given case.

(D) "Offense," except where the context specifically indicates otherwise, includes felonies, misdemeanors, and violations of ordinances of municipal corporations and other public bodies authorized by law to adopt penal regulations.

Sec. 2935.03. (A)(1) A sheriff, deputy sheriff, marshal, deputy marshal, municipal police officer, township constable, police officer of a township or joint police district, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code, state university law enforcement officer appointed under section 3345.04 of the Revised Code, veterans' home police officer appointed under section 5907.02 of the Revised Code, special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code, or a special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of transportation as provided in Parts 1542. and 1544. of Title 49 of the Code of Federal Regulations, as amended, shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, university, veterans' home operated under Chapter 5907. of the Revised Code, port authority, or municipal airport or other municipal air navigation facility, in which the peace officer is appointed, employed, or elected, a law of this state, an ordinance of a municipal corporation, or a resolution of a township.

(2) A peace officer of the department of natural resources, a state fire marshal law enforcement officer described in division (A)(23) of section 109.71 of the Revised Code, or an individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the peace officer's, state fire

marshal law enforcement officer's, or individual's territorial jurisdiction, a law of this state.

(3) The house sergeant at arms, if the house sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code, and an assistant house sergeant at arms shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the sergeant at arms's or assistant sergeant at arms's territorial jurisdiction specified in division (D)(1)(a) of section 101.311 of the Revised Code or while providing security pursuant to division (D)(1)(f) of section 101.311 of the Revised Code, a law of this state, an ordinance of a municipal corporation, or a resolution of a township.

(4) The senate sergeant at arms and an assistant senate sergeant at arms shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the sergeant at arms's or assistant sergeant at arms's territorial jurisdiction specified in division (B) of section 101.312 of the Revised Code, a law of this state, an ordinance of a municipal corporation, or a resolution of a township.

(B)(1) When there is reasonable ground to believe that an offense of violence, the offense of criminal child enticement as defined in section 2905.05 of the Revised Code, the offense of public indecency as defined in section 2907.09 of the Revised Code, the offense of domestic violence as defined in section 2919.25 of the Revised Code, the offense of violating a protection order as defined in section 2919.27 of the Revised Code, the offense of menacing by stalking as defined in section 2903.211 of the Revised Code, the offense of aggravated trespass as defined in section 2911.211 of the Revised Code, a theft offense as defined in section 2913.01 of the Revised Code, or a felony drug abuse offense as defined in section 2925.01 of the Revised Code, has been committed within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, university, veterans' home operated under Chapter 5907. of the Revised Code, port authority, or municipal airport or other municipal air navigation facility, in which the peace officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer, a peace officer described in division (A) of this section may arrest and detain until a warrant can be obtained any person who the peace officer has reasonable cause to believe is guilty of the violation.

(2) For purposes of division (B)(1) of this section, the execution of any

of the following constitutes reasonable ground to believe that the offense alleged in the statement was committed and reasonable cause to believe that the person alleged in the statement to have committed the offense is guilty of the violation:

(a) A written statement by a person alleging that an alleged offender has committed the offense of menacing by stalking or aggravated trespass;

(b) A written statement by the administrator of the interstate compact on mental health appointed under section 5119.71 of the Revised Code alleging that a person who had been hospitalized, institutionalized, or confined in any facility under an order made pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code has escaped from the facility, from confinement in a vehicle for transportation to or from the facility, or from supervision by an employee of the facility that is incidental to hospitalization, institutionalization, or confinement in the facility and that occurs outside of the facility, in violation of section 2921.34 of the Revised Code;

(c) A written statement by the administrator of any facility in which a person has been hospitalized, institutionalized, or confined under an order made pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code alleging that the person has escaped from the facility, from confinement in a vehicle for transportation to or from the facility, or from supervision by an employee of the facility that is incidental to hospitalization, institutionalization, or confinement in the facility and that occurs outside of the facility, in violation of section 2921.34 of the Revised Code.

(3)(a) For purposes of division (B)(1) of this section, a peace officer described in division (A) of this section has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that a particular person is guilty of committing the offense if any of the following occurs:

(i) A person executes a written statement alleging that the person in question has committed the offense of domestic violence or the offense of violating a protection order against the person who executes the statement or against a child of the person who executes the statement.

(ii) No written statement of the type described in division (B)(3)(a)(i) of this section is executed, but the peace officer, based upon the peace officer's own knowledge and observation of the facts and circumstances of the alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order or based upon any other information, including, but not limited to, any reasonably trustworthy



information given to the peace officer by the alleged victim of the alleged incident of the offense or any witness of the alleged incident of the offense, concludes that there are reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that the person in question is guilty of committing the offense.

(iii) No written statement of the type described in division (B)(3)(a)(i) of this section is executed, but the peace officer witnessed the person in question commit the offense of domestic violence or the offense of violating a protection order.

(b) If pursuant to division (B)(3)(a) of this section a peace officer has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that a particular person is guilty of committing the offense, it is the preferred course of action in this state that the officer arrest and detain that person pursuant to division (B)(1) of this section until a warrant can be obtained.

If pursuant to division (B)(3)(a) of this section a peace officer has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that family or household members have committed the offense against each other, it is the preferred course of action in this state that the officer, pursuant to division (B)(1) of this section, arrest and detain until a warrant can be obtained the family or household member who committed the offense and whom the officer has reasonable cause to believe is the primary physical aggressor. There is no preferred course of action in this state regarding any other family or household member who committed the offense and whom the officer does not have reasonable cause to believe is the primary physical aggressor, but, pursuant to division (B)(1) of this section, the peace officer may arrest and detain until a warrant can be obtained any other family or household member who committed the offense and whom the officer does not have reasonable cause to believe is the primary physical aggressor.

(c) If a peace officer described in division (A) of this section does not arrest and detain a person whom the officer has reasonable cause to believe committed the offense of domestic violence or the offense of violating a protection order when it is the preferred course of action in this state pursuant to division (B)(3)(b) of this section that the officer arrest that person, the officer shall articulate in the written report of the incident required by section 2935.032 of the Revised Code a clear statement of the

officer's reasons for not arresting and detaining that person until a warrant can be obtained.

(d) In determining for purposes of division (B)(3)(b) of this section which family or household member is the primary physical aggressor in a situation in which family or household members have committed the offense of domestic violence or the offense of violating a protection order against each other, a peace officer described in division (A) of this section, in addition to any other relevant circumstances, should consider all of the following:

(i) Any history of domestic violence or of any other violent acts by either person involved in the alleged offense that the officer reasonably can ascertain;

(ii) If violence is alleged, whether the alleged violence was caused by a person acting in self-defense;

(iii) Each person's fear of physical harm, if any, resulting from the other person's threatened use of force against any person or resulting from the other person's use or history of the use of force against any person, and the reasonableness of that fear;

(iv) The comparative severity of any injuries suffered by the persons involved in the alleged offense.

(e)(i) A peace officer described in division (A) of this section shall not require, as a prerequisite to arresting or charging a person who has committed the offense of domestic violence or the offense of violating a protection order, that the victim of the offense specifically consent to the filing of charges against the person who has committed the offense or sign a complaint against the person who has committed the offense.

(ii) If a person is arrested for or charged with committing the offense of domestic violence or the offense of violating a protection order and if the victim of the offense does not cooperate with the involved law enforcement or prosecuting authorities in the prosecution of the offense or, subsequent to the arrest or the filing of the charges, informs the involved law enforcement or prosecuting authorities that the victim does not wish the prosecution of the offense to continue or wishes to drop charges against the alleged offender relative to the offense, the involved prosecuting authorities, in determining whether to continue with the prosecution of the offense or whether to dismiss charges against the alleged offender relative to the offense and notwithstanding the victim's failure to cooperate or the victim's wishes, shall consider all facts and circumstances that are relevant to the offense, including, but not limited to, the statements and observations of the peace officers who responded to the incident that resulted in the arrest or

filing of the charges and of all witnesses to that incident.

(f) In determining pursuant to divisions (B)(3)(a) to (g) of this section whether to arrest a person pursuant to division (B)(1) of this section, a peace officer described in division (A) of this section shall not consider as a factor any possible shortage of cell space at the detention facility to which the person will be taken subsequent to the person's arrest or any possibility that the person's arrest might cause, contribute to, or exacerbate overcrowding at that detention facility or at any other detention facility.

(g) If a peace officer described in division (A) of this section intends pursuant to divisions (B)(3)(a) to (g) of this section to arrest a person pursuant to division (B)(1) of this section and if the officer is unable to do so because the person is not present, the officer promptly shall seek a warrant for the arrest of the person.

(h) If a peace officer described in division (A) of this section responds to a report of an alleged incident of the offense of domestic violence or an alleged incident of the offense of violating a protection order and if the circumstances of the incident involved the use or threatened use of a deadly weapon or any person involved in the incident brandished a deadly weapon during or in relation to the incident, the deadly weapon that was used, threatened to be used, or brandished constitutes contraband, and, to the extent possible, the officer shall seize the deadly weapon as contraband pursuant to Chapter 2981. of the Revised Code. Upon the seizure of a deadly weapon pursuant to division (B)(3)(h) of this section, section 2981.12 of the Revised Code shall apply regarding the treatment and disposition of the deadly weapon. For purposes of that section, the "underlying criminal offense" that was the basis of the seizure of a deadly weapon under division (B)(3)(h) of this section and to which the deadly weapon had a relationship is any of the following that is applicable:

(i) The alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order to which the officer who seized the deadly weapon responded;

(ii) Any offense that arose out of the same facts and circumstances as the report of the alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order to which the officer who seized the deadly weapon responded.

(4) If, in the circumstances described in divisions (B)(3)(a) to (g) of this section, a peace officer described in division (A) of this section arrests and detains a person pursuant to division (B)(1) of this section, or if, pursuant to division (B)(3)(h) of this section, a peace officer described in division (A) of this section seizes a deadly weapon, the officer, to the extent described in

and in accordance with section 9.86 or 2744.03 of the Revised Code, is immune in any civil action for damages for injury, death, or loss to person or property that arises from or is related to the arrest and detention or the seizure.

(C) When there is reasonable ground to believe that a violation of division (A)(1), (2), (3), (4), or (5) of section 4506.15 or a violation of section 4511.19 of the Revised Code has been committed by a person operating a motor vehicle subject to regulation by the public utilities commission of Ohio under Title XLIX of the Revised Code, a peace officer with authority to enforce that provision of law may stop or detain the person whom the officer has reasonable cause to believe was operating the motor vehicle in violation of the division or section and, after investigating the circumstances surrounding the operation of the vehicle, may arrest and detain the person.

(D) If a sheriff, deputy sheriff, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code, special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code, special police officer employed by a municipal corporation at a municipal airport or other municipal air navigation facility described in division (A) of this section, township constable, police officer of a township or joint police district, state university law enforcement officer appointed under section 3345.04 of the Revised Code, peace officer of the department of natural resources, individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code, the house sergeant at arms if the house sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code, or an assistant house sergeant at arms is authorized by division (A) or (B) of this section to arrest and detain, within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, port authority, municipal airport or other municipal air navigation facility, college, or university in which the officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer, a person until a warrant can be obtained, the peace officer, outside the limits of that territory, may pursue, arrest, and detain that person until a warrant can be obtained if all of the following

apply:

(1) The pursuit takes place without unreasonable delay after the offense is committed;

(2) The pursuit is initiated within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, port authority, municipal airport or other municipal air navigation facility, college, or university in which the peace officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer;

(3) The offense involved is a felony, a misdemeanor of the first degree or a substantially equivalent municipal ordinance, a misdemeanor of the second degree or a substantially equivalent municipal ordinance, or any offense for which points are chargeable pursuant to section 4510.036 of the Revised Code.

(E) In addition to the authority granted under division (A) or (B) of this section:

(1) A sheriff or deputy sheriff may arrest and detain, until a warrant can be obtained, any person found violating section 4503.11, 4503.21, or 4549.01, sections 4549.08 to 4549.12, section 4549.62, or Chapter 4511. or 4513. of the Revised Code on the portion of any street or highway that is located immediately adjacent to the boundaries of the county in which the sheriff or deputy sheriff is elected or appointed.

(2) A member of the police force of a township police district created under section 505.48 of the Revised Code, a member of the police force of a joint police district created under section 505.482 of the Revised Code, or a township constable appointed in accordance with section 509.01 of the Revised Code, who has received a certificate from the Ohio peace officer training commission under section 109.75 of the Revised Code, may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section, other than sections 4513.33 and 4513.34 of the Revised Code, on the portion of any street or highway that is located immediately adjacent to the boundaries of the township police district or joint police district, in the case of a member of a township police district or joint police district police force, or the unincorporated territory of the township, in the case of a township constable. However, if the population of the township that created the township police district served by the member's police force, or the townships and municipal corporations that created the joint police district

served by the member's police force, or the township that is served by the township constable, is sixty thousand or less, the member of the township police district or joint police district police force or the township constable may not make an arrest under division (E)(2) of this section on a state highway that is included as part of the interstate system.

(3) A police officer or village marshal appointed, elected, or employed by a municipal corporation may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section on the portion of any street or highway that is located immediately adjacent to the boundaries of the municipal corporation in which the police officer or village marshal is appointed, elected, or employed.

(4) A peace officer of the department of natural resources, a state fire marshal law enforcement officer described in division (A)(23) of section 109.71 of the Revised Code, or an individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section, other than sections 4513.33 and 4513.34 of the Revised Code, on the portion of any street or highway that is located immediately adjacent to the boundaries of the lands and waters that constitute the territorial jurisdiction of the peace officer or state fire marshal law enforcement officer.

(F)(1) A department of mental health and addiction services special police officer or a department of developmental disabilities special police officer may arrest without a warrant and detain until a warrant can be obtained any person found committing on the premises of any institution under the jurisdiction of the particular department a misdemeanor under a law of the state.

A department of mental health and addiction services special police officer or a department of developmental disabilities special police officer may arrest without a warrant and detain until a warrant can be obtained any person who has been hospitalized, institutionalized, or confined in an institution under the jurisdiction of the particular department pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code and who is found committing on the premises of any institution under the jurisdiction of the particular department a violation of section 2921.34 of the Revised Code that involves an escape from the premises of the institution.

(2)(a) If a department of mental health and addiction services special

police officer or a department of developmental disabilities special police officer finds any person who has been hospitalized, institutionalized, or confined in an institution under the jurisdiction of the particular department pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code committing a violation of section 2921.34 of the Revised Code that involves an escape from the premises of the institution, or if there is reasonable ground to believe that a violation of section 2921.34 of the Revised Code has been committed that involves an escape from the premises of an institution under the jurisdiction of the department of mental health and addiction services or the department of developmental disabilities and if a department of mental health and addiction services special police officer or a department of developmental disabilities special police officer has reasonable cause to believe that a particular person who has been hospitalized, institutionalized, or confined in the institution pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code is guilty of the violation, the special police officer, outside of the premises of the institution, may pursue, arrest, and detain that person for that violation of section 2921.34 of the Revised Code, until a warrant can be obtained, if both of the following apply:

(i) The pursuit takes place without unreasonable delay after the offense is committed;

(ii) The pursuit is initiated within the premises of the institution from which the violation of section 2921.34 of the Revised Code occurred.

(b) For purposes of division (F)(2)(a) of this section, the execution of a written statement by the administrator of the institution in which a person had been hospitalized, institutionalized, or confined pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code alleging that the person has escaped from the premises of the institution in violation of section 2921.34 of the Revised Code constitutes reasonable ground to believe that the violation was committed and reasonable cause to believe that the person alleged in the statement to have committed the offense is guilty of the violation.

(G) As used in this section:

(1) A "department of mental health and addiction services special police officer" means a special police officer of the department of mental health and addiction services designated under section 5119.08 of the Revised Code who is certified by the Ohio peace officer training commission under section 109.77 of the Revised Code as having successfully completed an

approved peace officer basic training program.

(2) A "department of developmental disabilities special police officer" means a special police officer of the department of developmental disabilities designated under section 5123.13 of the Revised Code who is certified by the Ohio peace officer training council under section 109.77 of the Revised Code as having successfully completed an approved peace officer basic training program.

(3) "Deadly weapon" has the same meaning as in section 2923.11 of the Revised Code.

(4) "Family or household member" has the same meaning as in section 2919.25 of the Revised Code.

(5) "Street" or "highway" has the same meaning as in section 4511.01 of the Revised Code.

(6) "Interstate system" has the same meaning as in section 5516.01 of the Revised Code.

(7) "Peace officer of the department of natural resources" means an employee of the department of natural resources who is a natural resources law enforcement staff officer designated pursuant to section 1501.013 of the Revised Code, a ~~forest officer designated~~ forest-fire investigator appointed pursuant to section ~~1503.29~~ 1503.09 of the Revised Code, a ~~preserve natural resources officer designated~~ appointed pursuant to section ~~1517.10~~ 1501.24 of the Revised Code, or a wildlife officer designated pursuant to section 1531.13 of the Revised Code, ~~a park officer designated pursuant to section 1541.10 of the Revised Code, or a state watercraft officer designated pursuant to section 1547.521 of the Revised Code.~~

(8) "Portion of any street or highway" means all lanes of the street or highway irrespective of direction of travel, including designated turn lanes, and any berm, median, or shoulder.

Sec. 2981.01. (A) Forfeitures under this chapter shall be governed by all of the following purposes:

(1) To provide economic disincentives and remedies to deter and offset the economic effect of offenses by seizing and forfeiting contraband, proceeds, and certain instrumentalities;

(2) To ensure that seizures and forfeitures of instrumentalities are proportionate to the offense committed;

(3) To protect third parties from wrongful forfeiture of their property;

(4) To prioritize restitution for victims of offenses.

(B) As used in this chapter:

(1) "Aircraft" has the same meaning as in section 4561.01 of the Revised Code.



(2) "Computers," "computer networks," "computer systems," "computer software," and "telecommunications device" have the same meanings as in section 2913.01 of the Revised Code.

(3) "Financial institution" means a bank, credit union, savings and loan association, or a licensee or registrant under Chapter 1321. of the Revised Code.

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

(5) "Innocent person" includes any bona fide purchaser of property that is subject to forfeiture, including any person who establishes a valid claim to or interest in the property in accordance with section 2923.04 of the Revised Code, and any victim of an alleged offense.

(6) "Instrumentality" means property otherwise lawful to possess that is used in or intended to be used in an offense. An "instrumentality" may include, but is not limited to, a firearm, a mobile instrumentality, a computer, a computer network, a computer system, computer software, a telecommunications device, money, and any other means of exchange.

(7) "Law enforcement agency" includes, but is not limited to, the state board of pharmacy, the enforcement division of the department of taxation, the Ohio casino control commission, and the office of the prosecutor.

(8) "Mobile instrumentality" means an instrumentality that is inherently mobile and used in the routine transport of persons. "Mobile instrumentality" includes, but is not limited to, any vehicle, any watercraft, and any aircraft.

(9) "Money" has the same meaning as in section 1301.201 of the Revised Code.

(10) "Offense" means any act or omission that could be charged as a criminal offense or a delinquent act, whether or not a formal criminal prosecution or delinquent child proceeding began at the time the forfeiture is initiated. Except as otherwise specified, an offense for which property may be forfeited includes any felony and any misdemeanor. The commission of an "offense" includes the commission of a delinquent act.

(11) "Proceeds" means both of the following:

(a) In cases involving unlawful goods, services, or activities, "proceeds" means any property derived directly or indirectly from an offense. "Proceeds" may include, but is not limited to, money or any other means of exchange. "Proceeds" is not limited to the net gain or profit realized from the offense.

(b) In cases involving lawful goods or services that are sold or provided in an unlawful manner, "proceeds" means the amount of money or other

means of exchange acquired through the illegal transactions resulting in the forfeiture, less the direct costs lawfully incurred in providing the goods or services. The lawful costs deduction does not include any part of the overhead expenses of, or income taxes paid by, the entity providing the goods or services. The alleged offender or delinquent child has the burden to prove that any costs are lawfully incurred.

(12) "Property" means "property" as defined in section 2901.01 of the Revised Code and any benefit, privilege, claim, position, interest in an enterprise, or right derived, directly or indirectly, from the offense.

(13) "Property subject to forfeiture" includes contraband and proceeds and may include instrumentalities as provided in this chapter.

(14) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code. When relevant, "prosecutor" also includes the attorney general.

(15) "Vehicle" has the same meaning as in section 4501.01 of the Revised Code.

(16) "Watercraft" has the same meaning as in section ~~1547.01~~ 1546.01 of the Revised Code.

(C) The penalties and procedures under Chapters 2923., 2925., 2933., and 3772. of the Revised Code remain in effect to the extent that they do not conflict with this chapter.

Sec. 3701.18. The director of health shall establish techniques and procedures as appropriate for use by the division of parks and ~~recreation~~ watercraft in the department of natural resources when taking samples and conducting tests under section ~~1541.032~~ 1546.08 of the Revised Code of the waters of this state that are adjacent to public swimming beaches as defined in that section. The director of health, in consultation with and subject to the approval of the director of natural resources, shall specify the frequency with which and location at which the waters are to be sampled and tested.

The director of health shall interpret the results of the water tests conducted under section ~~1541.032~~ 1546.08 of the Revised Code. If the director's interpretation indicates that the bacteria levels in the waters tested present a possible health risk to persons using the waters for swimming and bathing and that the posting of signs advising the public of the condition is warranted, the director shall notify the chief of the division of parks and ~~recreation~~ watercraft.

Sec. 3714.03. (A) As used in this section:

(1) "Aquifer system" means one or more geologic units or formations that are wholly or partially saturated with water and are capable of storing, transmitting, and yielding significant amounts of water to wells or springs.

(2) "Category 3 wetland" means a wetland that supports superior habitat or hydrological or recreational functions as determined by an appropriate wetland evaluation methodology acceptable to the director of environmental protection. "Category 3 wetland" includes a wetland with high levels of diversity, a high proportion of native species, and high functional values and includes, but is not limited to, a wetland that contains or provides habitat for threatened or endangered species. "Category 3 wetland" may include high quality forested wetlands, including old growth forested wetlands, mature forested riparian wetlands, vernal pools, bogs, fens, and wetlands that are scarce regionally.

(3) "Natural area" means either of the following:

(a) An area designated by the director of natural resources as a wild, scenic, or recreational river under section 1547.81 of the Revised Code;

(b) An area designated by the United States department of the interior as a national wild, scenic, or recreational river.

(4) "Occupied dwelling" means a residential dwelling and also includes a place of worship as defined in section 5104.01 of the Revised Code, a child day-care center as defined in that section, a hospital as defined in section 3727.01 of the Revised Code, a nursing home as defined in that section, a school, and a restaurant or other eating establishment. "Occupied dwelling" does not include a dwelling owned or controlled by the owner or operator of a construction and demolition debris facility to which the siting criteria established under this section are being applied.

(5) "Residential dwelling" means a building used or intended to be used in whole or in part as a personal residence by the owner, part-time owner, or lessee of the building or any person authorized by the owner, part-time owner, or lessee to use the building as a personal residence.

(B) Neither the director of environmental protection nor any board of health shall issue a permit to install under section 3714.051 of the Revised Code to establish a new construction and demolition debris facility when any portion of the facility is proposed to be located in either of the following locations:

(1) Within the boundaries of a one-hundred-year flood plain, as those boundaries are shown on the applicable maps prepared under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, unless the owner or operator has obtained an exemption from division (B)(1) of this section in accordance with section 3714.04 of the Revised Code. If no such maps have been prepared, the boundaries of a one-hundred-year flood plain shall be determined by the applicant for a permit based upon standard methodologies set forth in "urban hydrology for small watersheds"

(soil conservation service technical release number 55) and section 4 of the "national engineering hydrology handbook" of the soil conservation service of the United States department of agriculture.

(2) Within the boundaries of a sole source aquifer designated by the administrator of the United States environmental protection agency under the "Safe Drinking Water Act," 88 Stat. 1660 (1974), 42 U.S.C.A. 300f, as amended.

(C) Neither the director nor any board shall issue a permit to install under section 3714.051 of the Revised Code to establish a new construction and demolition debris facility when the horizontal limits of construction and demolition debris placement at the new facility are proposed to be located in any of the following locations:

(1) Within one hundred feet of a perennial stream as defined by the United States geological survey seven and one-half minute quadrangle map or a category 3 wetland;

(2) Within one hundred feet of the facility's property line;

(3)(a) Except as provided in division (C)(3)(b) of this section, within five hundred feet of a residential or public water supply well.

(b) Division (C)(3)(a) of this section does not apply to a residential well under any of the circumstances specified in divisions (C)(3)(b)(i) to (iii) of this section as follows:

(i) The well is controlled by the owner or operator of the construction and demolition debris facility.

(ii) The well is hydrologically separated from the horizontal limits of construction and demolition debris placement.

(iii) The well is at least three hundred feet upgradient from the horizontal limits of construction and demolition debris placement and division (D) of this section does not prohibit the issuance of the permit to install.

(4) Within five hundred feet of a park created or operated pursuant to section 301.26, 511.18, 755.08, 1545.04, or 1545.041 of the Revised Code, a state park established or dedicated under Chapter ~~1541~~, 1546, of the Revised Code, a state park purchase area established under section ~~1541.02~~ 1546.06 of the Revised Code, a national recreation area, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any area located in this state that is recommended by the secretary for study for potential inclusion in the national park system in accordance with "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended;

(5) Within five hundred feet of a natural area, any area established by the department of natural resources as a state wildlife area under Chapter 1531. of the Revised Code and rules adopted under it, any area that is formally dedicated as a nature preserve under section 1517.05 of the Revised Code, or any area designated by the United States department of the interior as a national wildlife refuge;

(6) Within five hundred feet of a lake or reservoir of one acre or more that is hydrogeologically connected to ground water. For purposes of division (C)(6) of this section, a lake or reservoir does not include a body of water constructed and used for purposes of surface water drainage or sediment control.

(7) Within five hundred feet of a state forest purchased or otherwise acquired under Chapter 1503. of the Revised Code;

(8) Within five hundred feet of an occupied dwelling unless written permission is given by the owner of the dwelling.

(D) Neither the director nor any board shall issue a permit to install under section 3714.051 of the Revised Code to establish a new construction and demolition debris facility when the limits of construction and demolition debris placement at the new facility are proposed to have an isolation distance of less than five feet from the uppermost aquifer system that consists of material that has a maximum hydraulic conductivity of  $1 \times 10^{-5}$  cm/sec and all of the geologic material comprising the isolation distance has a hydraulic conductivity equivalent to or less than  $1 \times 10^{-6}$  cm/sec.

(E) Neither the director nor any board shall issue a permit to install under section 3714.051 of the Revised Code to establish a new construction and demolition debris facility when the road that is designated by the owner or operator as the main hauling road at the facility to and from the limits of construction and demolition debris placement is proposed to be located within five hundred feet of an occupied dwelling unless written permission is given by the owner of the occupied dwelling.

(F) Neither the director nor any board shall issue a permit to install under section 3714.051 of the Revised Code to establish a new construction and demolition debris facility unless the new facility will have all of the following:

(1) Access roads that shall be constructed in a manner that allows use in all weather conditions and will withstand the anticipated degree of use and minimize erosion and generation of dust;

(2) Surface water drainage and sediment controls that are required by the director;

(3) If the facility is proposed to be located in an area in which an

applicable zoning resolution allows residential construction, vegetated earthen berms or an equivalent barrier with a minimum height of six feet separating the facility from adjoining property.

(G)(1) The siting criteria established in this section shall be applied to an application for a permit to install at the time that the application is submitted to the director or a board of health, as applicable. Circumstances related to the siting criteria that change after the application is submitted shall not be considered in approving or disapproving the application.

(2) The siting criteria established in this section by this amendment do not apply to an expansion of a construction and demolition debris facility that was in operation prior to December 22, 2005, onto property within the property boundaries identified in the application for the initial license for that facility or any subsequent license issued for that facility up to and including the license issued for that facility for calendar year 2005. The siting criteria established in this section prior to December 22, 2005, apply to such an expansion.

Sec. 3734.02. (A) The director of environmental protection, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend, suspend, or rescind rules having uniform application throughout the state governing solid waste facilities and the inspections of and issuance of permits and licenses for all solid waste facilities in order to ensure that the facilities will be located, maintained, and operated, and will undergo closure and post-closure care, in a sanitary manner so as not to create a nuisance, cause or contribute to water pollution, create a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 257.3-8, as amended. The rules may include, without limitation, financial assurance requirements for closure and post-closure care and corrective action and requirements for taking corrective action in the event of the surface or subsurface discharge or migration of explosive gases or leachate from a solid waste facility, or of ground water contamination resulting from the transfer or disposal of solid wastes at a facility, beyond the boundaries of any area within a facility that is operating or is undergoing closure or post-closure care where solid wastes were disposed of or are being disposed of. The rules shall not concern or relate to personnel policies, salaries, wages, fringe benefits, or other conditions of employment of employees of persons owning or operating solid waste facilities. The director, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend, suspend, or rescind rules governing the issuance, modification, revocation, suspension, or denial of variances from the director's solid waste rules, including, without limitation, rules adopted under this chapter governing the management of scrap tires.

Variations shall be issued, modified, revoked, suspended, or rescinded in accordance with this division, rules adopted under it, and Chapter 3745. of the Revised Code. The director may order the person to whom a variance is issued to take such action within such time as the director may determine to be appropriate and reasonable to prevent the creation of a nuisance or a hazard to the public health or safety or the environment. Applications for variations shall contain such detail plans, specifications, and information regarding objectives, procedures, controls, and other pertinent data as the director may require. The director shall grant a variance only if the applicant demonstrates to the director's satisfaction that construction and operation of the solid waste facility in the manner allowed by the variance and any terms or conditions imposed as part of the variance will not create a nuisance or a hazard to the public health or safety or the environment. In granting any variance, the director shall state the specific provision or provisions whose terms are to be varied and also shall state specific terms or conditions imposed upon the applicant in place of the provision or provisions.

The director may hold a public hearing on an application for a variance or renewal of a variance at a location in the county where the operations that are the subject of the application for the variance are conducted. The director shall give not less than twenty days' notice of the hearing to the applicant by certified mail or by another type of mail accompanied by a receipt and shall publish at least one notice of the hearing in a newspaper with general circulation in the county where the hearing is to be held. The director shall make available for public inspection at the principal office of the environmental protection agency a current list of pending applications for variations and a current schedule of pending variance hearings. The director shall make a complete stenographic record of testimony and other evidence submitted at the hearing.

Within ten days after the hearing, the director shall make a written determination to issue, renew, or deny the variance and shall enter the determination and the basis for it into the record of the hearing. The director shall issue, renew, or deny an application for a variance or renewal of a variance within six months of the date upon which the director receives a complete application with all pertinent information and data required. No variance shall be issued, revoked, modified, or denied until the director has considered the relative interests of the applicant, other persons and property affected by the variance, and the general public. Any variance granted under this division shall be for a period specified by the director and may be renewed from time to time on such terms and for such periods as the director determines to be appropriate. No application shall be denied and no

variance shall be revoked or modified without a written order stating the findings upon which the denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or variance holder by certified mail or by another type of mail accompanied by a receipt.

(B) The director shall prescribe and furnish the forms necessary to administer and enforce this chapter. The director may cooperate with and enter into agreements with other state, local, or federal agencies to carry out the purposes of this chapter. The director may exercise all incidental powers necessary to carry out the purposes of this chapter.

(C) Except as provided in this division and divisions (N)(2) and (3) of this section, no person shall establish a new solid waste facility or infectious waste treatment facility, or modify an existing solid waste facility or infectious waste treatment facility, without submitting an application for a permit with accompanying detail plans, specifications, and information regarding the facility and method of operation and receiving a permit issued by the director, except that no permit shall be required under this division to install or operate a solid waste facility for sewage sludge treatment or disposal when the treatment or disposal is authorized by a current permit issued under Chapter 3704. or 6111. of the Revised Code.

No person shall continue to operate a solid waste facility for which the director has denied a permit for which an application was required under division (A)(3) of section 3734.05 of the Revised Code, or for which the director has disapproved plans and specifications required to be filed by an order issued under division (A)(5) of that section, after the date prescribed for commencement of closure of the facility in the order issued under division (A)(6) of section 3734.05 of the Revised Code denying the permit application or approval.

On and after the effective date of the rules adopted under division (A) of this section and division (D) of section 3734.12 of the Revised Code governing solid waste transfer facilities, no person shall establish a new, or modify an existing, solid waste transfer facility without first submitting an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation to the director and receiving a permit issued by the director.

No person shall establish a new compost facility or continue to operate an existing compost facility that accepts exclusively source separated yard wastes without submitting a completed registration for the facility to the director in accordance with rules adopted under divisions (A) and (N)(3) of this section.

This division does not apply to a generator of infectious wastes that



does any of the following:

(1) Treats, by methods, techniques, and practices established by rules adopted under division (B)(2)(a) of section 3734.021 of the Revised Code, any of the following:

(a) Infectious wastes that are generated on any premises that are owned or operated by the generator;

(b) Infectious wastes that are generated by a generator who has staff privileges at a hospital as defined in section 3727.01 of the Revised Code;

(c) Infectious wastes that are generated in providing care to a patient by an emergency medical services organization as defined in section 4765.01 of the Revised Code.

(2) Holds a license or renewal of a license to operate a crematory facility issued under Chapter 4717. and a permit issued under Chapter 3704. of the Revised Code;

(3) Treats or disposes of dead animals or parts thereof, or the blood of animals, and is subject to any of the following:

(a) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended;

(b) Chapter 918. of the Revised Code;

(c) Chapter 953. of the Revised Code.

(D) Neither this chapter nor any rules adopted under it apply to single-family residential premises; to infectious wastes generated by individuals for purposes of their own care or treatment; to the temporary storage of solid wastes, other than scrap tires, prior to their collection for disposal; to the storage of one hundred or fewer scrap tires unless they are stored in such a manner that, in the judgment of the director or the board of health of the health district in which the scrap tires are stored, the storage causes a nuisance, a hazard to public health or safety, or a fire hazard; or to the collection of solid wastes, other than scrap tires, by a political subdivision or a person holding a franchise or license from a political subdivision of the state; to composting, as defined in section 1511.01 of the Revised Code, conducted in accordance with section 1511.022 of the Revised Code; or to any person who is licensed to transport raw rendering material to a compost facility pursuant to section 953.23 of the Revised Code.

(E)(1) As used in this division:

(a) "On-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated on the premises of the facility.

(b) "Off-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated off the premises of the facility and

includes such a facility that is also an on-site facility.

(c) "Satellite facility" means any of the following:

(i) An on-site facility that also receives hazardous waste from other premises owned by the same person who generates the waste on the facility premises;

(ii) An off-site facility operated so that all of the hazardous waste it receives is generated on one or more premises owned by the person who owns the facility;

(iii) An on-site facility that also receives hazardous waste that is transported uninterrupted and directly to the facility through a pipeline from a generator who is not the owner of the facility.

(2) Except as provided in division (E)(3) of this section, no person shall establish or operate a hazardous waste facility, or use a solid waste facility for the storage, treatment, or disposal of any hazardous waste, without a hazardous waste facility installation and operation permit issued in accordance with section 3734.05 of the Revised Code and subject to the payment of an application fee not to exceed one thousand five hundred dollars, payable upon application for a hazardous waste facility installation and operation permit and upon application for a renewal permit issued under division (H) of section 3734.05 of the Revised Code, to be credited to the hazardous waste facility management fund created in section 3734.18 of the Revised Code. The term of a hazardous waste facility installation and operation permit shall not exceed ten years.

In addition to the application fee, there is hereby levied an annual permit fee to be paid by the permit holder upon the anniversaries of the date of issuance of the hazardous waste facility installation and operation permit and of any subsequent renewal permits and to be credited to the hazardous waste facility management fund. Annual permit fees totaling forty thousand dollars or more for any one facility may be paid on a quarterly basis with the first quarterly payment each year being due on the anniversary of the date of issuance of the hazardous waste facility installation and operation permit and of any subsequent renewal permits. The annual permit fee shall be determined for each permit holder by the director in accordance with the following schedule:

TYPE OF BASIC MANAGEMENT UNIT	TYPE OF FACILITY	FEE
Storage facility using: Containers	On-site, off-site, and satellite	\$ 500
Tanks	On-site, off-site, and	

	satellite	500
Waste pile	On-site, off-site, and satellite	3,000
Surface impoundment	On-site and satellite	8,000
	Off-site	10,000
Disposal facility using:		
Deep well injection	On-site and satellite	15,000
	Off-site	25,000
Landfill	On-site and satellite	25,000
	Off-site	40,000
Land application	On-site and satellite	2,500
	Off-site	5,000
Surface impoundment	On-site and satellite	10,000
	Off-site	20,000
Treatment facility using:		
Tanks	On-site, off-site, and satellite	700
Surface impoundment	On-site and satellite	8,000
	Off-site	10,000
Incinerator	On-site and satellite	5,000
	Off-site	10,000
Other forms of treatment	On-site, off-site, and satellite	1,000

A hazardous waste disposal facility that disposes of hazardous waste by deep well injection and that pays the annual permit fee established in section 6111.046 of the Revised Code is not subject to the permit fee established in this division for disposal facilities using deep well injection unless the director determines that the facility is not in compliance with applicable requirements established under this chapter and rules adopted under it.

In determining the annual permit fee required by this section, the director shall not require additional payments for multiple units of the same method of storage, treatment, or disposal or for individual units that are used for both storage and treatment. A facility using more than one method of storage, treatment, or disposal shall pay the permit fee indicated by the schedule for each such method.

The director shall not require the payment of that portion of an annual permit fee of any permit holder that would apply to a hazardous waste management unit for which a permit has been issued, but for which construction has not yet commenced. Once construction has commenced,

the director shall require the payment of a part of the appropriate fee indicated by the schedule that bears the same relationship to the total fee that the number of days remaining until the next anniversary date at which payment of the annual permit fee is due bears to three hundred sixty-five.

The director, by rules adopted in accordance with Chapters 119. and 3745. of the Revised Code, shall prescribe procedures for collecting the annual permit fee established by this division and may prescribe other requirements necessary to carry out this division.

(3) The prohibition against establishing or operating a hazardous waste facility without a hazardous waste facility installation and operation permit does not apply to either of the following:

(a) A facility that is operating in accordance with a permit renewal issued under division (H) of section 3734.05 of the Revised Code, a revision issued under division (I) of that section as it existed prior to August 20, 1996, or a modification issued by the director under division (I) of that section on and after August 20, 1996;

(b) Except as provided in division (J) of section 3734.05 of the Revised Code, a facility that will operate or is operating in accordance with a permit by rule, or that is not subject to permit requirements, under rules adopted by the director. In accordance with Chapter 119. of the Revised Code, the director shall adopt, and subsequently may amend, suspend, or rescind, rules for the purposes of division (E)(3)(b) of this section. Any rules so adopted shall be consistent with and equivalent to regulations pertaining to interim status adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise provided in this chapter.

If a modification is requested or proposed for a facility described in division (E)(3)(a) or (b) of this section, division (I)(7) of section 3734.05 of the Revised Code applies.

(F) No person shall store, treat, or dispose of hazardous waste identified or listed under this chapter and rules adopted under it, regardless of whether generated on or off the premises where the waste is stored, treated, or disposed of, or transport or cause to be transported any hazardous waste identified or listed under this chapter and rules adopted under it to any other premises, except at or to any of the following:

(1) A hazardous waste facility operating under a permit issued in accordance with this chapter;

(2) A facility in another state operating under a license or permit issued in accordance with the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended;

(3) A facility in another nation operating in accordance with the laws of that nation;

(4) A facility holding a permit issued pursuant to Title I of the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 Stat. 1052, 33 U.S.C.A. 1401, as amended;

(5) A hazardous waste facility as described in division (E)(3)(a) or (b) of this section.

(G) The director, by order, may exempt any person generating, collecting, storing, treating, disposing of, or transporting solid wastes, infectious wastes, or hazardous waste, or processing solid wastes that consist of scrap tires, in such quantities or under such circumstances that, in the determination of the director, are unlikely to adversely affect the public health or safety or the environment from any requirement to obtain a registration certificate, permit, or license or comply with the manifest system or other requirements of this chapter. Such an exemption shall be consistent with and equivalent to any regulations adopted by the administrator of the United States environmental protection agency under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise provided in this chapter.

(H) No person shall engage in filling, grading, excavating, building, drilling, or mining on land where a hazardous waste facility, or a solid waste facility, was operated without prior authorization from the director, who shall establish the procedure for granting such authorization by rules adopted in accordance with Chapter 119. of the Revised Code.

A public utility that has main or distribution lines above or below the land surface located on an easement or right-of-way across land where a solid waste facility was operated may engage in any such activity within the easement or right-of-way without prior authorization from the director for purposes of performing emergency repair or emergency replacement of its lines; of the poles, towers, foundations, or other structures supporting or sustaining any such lines; or of the appurtenances to those structures, necessary to restore or maintain existing public utility service. A public utility may enter upon any such easement or right-of-way without prior authorization from the director for purposes of performing necessary or routine maintenance of those portions of its existing lines; of the existing poles, towers, foundations, or other structures sustaining or supporting its lines; or of the appurtenances to any such supporting or sustaining structure, located on or above the land surface on any such easement or right-of-way. Within twenty-four hours after commencing any such emergency repair, replacement, or maintenance work, the public utility shall notify the director

or the director's authorized representative of those activities and shall provide such information regarding those activities as the director or the director's representative may request. Upon completion of the emergency repair, replacement, or maintenance activities, the public utility shall restore any land of the solid waste facility disturbed by those activities to the condition existing prior to the commencement of those activities.

(I) No owner or operator of a hazardous waste facility, in the operation of the facility, shall cause, permit, or allow the emission therefrom of any particulate matter, dust, fumes, gas, mist, smoke, vapor, or odorous substance that, in the opinion of the director, unreasonably interferes with the comfortable enjoyment of life or property by persons living or working in the vicinity of the facility, or that is injurious to public health. Any such action is hereby declared to be a public nuisance.

(J) Notwithstanding any other provision of this chapter, in the event the director finds an imminent and substantial danger to public health or safety or the environment that creates an emergency situation requiring the immediate treatment, storage, or disposal of hazardous waste, the director may issue a temporary emergency permit to allow the treatment, storage, or disposal of the hazardous waste at a facility that is not otherwise authorized by a hazardous waste facility installation and operation permit to treat, store, or dispose of the waste. The emergency permit shall not exceed ninety days in duration and shall not be renewed. The director shall adopt, and may amend, suspend, or rescind, rules in accordance with Chapter 119. of the Revised Code governing the issuance, modification, revocation, and denial of emergency permits.

(K) Except for infectious wastes generated by a person who produces fewer than fifty pounds of infectious wastes at a premises during any one month, no owner or operator of a sanitary landfill shall knowingly accept for disposal, or dispose of, any infectious wastes that have not been treated to render them noninfectious.

(L) The director, in accordance with Chapter 119. of the Revised Code, shall adopt, and may amend, suspend, or rescind, rules having uniform application throughout the state establishing a training and certification program that shall be required for employees of boards of health who are responsible for enforcing the solid waste and infectious waste provisions of this chapter and rules adopted under them and for persons who are responsible for the operation of solid waste facilities or infectious waste treatment facilities. The rules shall provide all of the following, without limitation:

(1) The program shall be administered by the director and shall consist

of a course on new solid waste and infectious waste technologies, enforcement procedures, and rules;

(2) The course shall be offered on an annual basis;

(3) Those persons who are required to take the course under division (L) of this section shall do so triennially;

(4) Persons who successfully complete the course shall be certified by the director;

(5) Certification shall be required for all employees of boards of health who are responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and for all persons who are responsible for the operation of solid waste facilities or infectious waste treatment facilities;

(6)(a) All employees of a board of health who, on the effective date of the rules adopted under this division, are responsible for enforcing the solid waste or infectious waste provisions of this chapter and the rules adopted under them shall complete the course and be certified by the director not later than January 1, 1995;

(b) All employees of a board of health who, after the effective date of the rules adopted under division (L) of this section, become responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and who do not hold a current and valid certification from the director at that time shall complete the course and be certified by the director within two years after becoming responsible for performing those activities.

No person shall fail to obtain the certification required under this division.

(M) The director shall not issue a permit under section 3734.05 of the Revised Code to establish a solid waste facility, or to modify a solid waste facility operating on December 21, 1988, in a manner that expands the disposal capacity or geographic area covered by the facility, that is or is to be located within the boundaries of a state park established or dedicated under Chapter ~~1541.~~ 1546. of the Revised Code, a state park purchase area established under section ~~1541.02~~ 1546.06 of the Revised Code, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any candidate area located in this state and identified for potential inclusion in the national park system in the edition of the "national park system plan" submitted under paragraph (b) of section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended,

current at the time of filing of the application for the permit, unless the facility or proposed facility is or is to be used exclusively for the disposal of solid wastes generated within the park or recreation area and the director determines that the facility or proposed facility will not degrade any of the natural or cultural resources of the park or recreation area. The director shall not issue a variance under division (A) of this section and rules adopted under it, or issue an exemption order under division (G) of this section, that would authorize any such establishment or expansion of a solid waste facility within the boundaries of any such park or recreation area, state park purchase area, or candidate area, other than a solid waste facility exclusively for the disposal of solid wastes generated within the park or recreation area when the director determines that the facility will not degrade any of the natural or cultural resources of the park or recreation area.

(N)(1) The rules adopted under division (A) of this section, other than those governing variances, do not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. Those facilities are subject to and governed by rules adopted under sections 3734.70 to 3734.73 of the Revised Code, as applicable.

(2) Division (C) of this section does not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. The establishment and modification of those facilities are subject to sections 3734.75 to 3734.78 and section 3734.81 of the Revised Code, as applicable.

(3) The director may adopt, amend, suspend, or rescind rules under division (A) of this section creating an alternative system for authorizing the establishment, operation, or modification of a solid waste compost facility in lieu of the requirement that a person seeking to establish, operate, or modify a solid waste compost facility apply for and receive a permit under division (C) of this section and section 3734.05 of the Revised Code and a license under division (A)(1) of that section. The rules may include requirements governing, without limitation, the classification of solid waste compost facilities, the submittal of operating records for solid waste compost facilities, and the creation of a registration or notification system in lieu of the issuance of permits and licenses for solid waste compost facilities. The rules shall specify the applicability of divisions (A)(1), (2)(a), (3), and (4) of section 3734.05 of the Revised Code to a solid waste compost facility.

(O)(1) As used in this division, "secondary aluminum waste" means waste material or byproducts, when disposed of, containing aluminum generated from secondary aluminum smelting operations and consisting of dross, salt cake, baghouse dust associated with aluminum recycling furnace operations, or dry-milled wastes.



(2) The owner or operator of a sanitary landfill shall not dispose of municipal solid waste that has been commingled with secondary aluminum waste.

(3) The owner or operator of a sanitary landfill may dispose of secondary aluminum waste, but only in a monocell or monofill that has been permitted for that purpose in accordance with this chapter and rules adopted under it.

(P)(1) As used in divisions (P) and (Q) of this section:

(a) "Natural background" means two picocuries per gram or the actual number of picocuries per gram as measured at an individual solid waste facility, subject to verification by the director of health.

(b) "Drilling operation" includes a production operation as defined in section 1509.01 of the Revised Code.

(2) The owner or operator of a solid waste facility shall not accept for transfer or disposal technologically enhanced naturally occurring radioactive material if that material contains or is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations equal to or greater than five picocuries per gram above natural background.

(3) The owner or operator of a solid waste facility may receive and process for purposes other than transfer or disposal technologically enhanced naturally occurring radioactive material that contains or is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations equal to or greater than five picocuries per gram above natural background, provided that the owner or operator has obtained and maintains all other necessary authorizations, including any authorization required by rules adopted by the director of health under section 3748.04 of the Revised Code.

(4) The director of environmental protection may adopt rules in accordance with Chapter 119. of the Revised Code governing the receipt, acceptance, processing, handling, management, and disposal by solid waste facilities of material that contains or is contaminated with radioactive material, including, without limitation, technologically enhanced naturally occurring radioactive material that contains or is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations less than five picocuries per gram above natural background. Rules adopted by the director may include at a minimum both of the following:

(a) Requirements in accordance with which the owner or operator of a solid waste facility must monitor leachate and ground water for radium-226,

radium-228, and other radionuclides;

(b) Requirements in accordance with which the owner or operator of a solid waste facility must develop procedures to ensure that technologically enhanced naturally occurring radioactive material accepted at the facility neither contains nor is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations equal to or greater than five picocuries per gram above natural background.

(Q) Notwithstanding any other provision of this section, the owner or operator of a solid waste facility shall not receive, accept, process, handle, manage, or dispose of technologically enhanced naturally occurring radioactive material associated with drilling operations without first obtaining representative analytical results to determine compliance with divisions (P)(2) and (3) of this section and rules adopted under it.

Sec. 3734.05. (A)(1) Except as provided in divisions (A)(4), (8), and (9) of this section, no person shall operate or maintain a solid waste facility without a license issued under this division by the board of health of the health district in which the facility is located or by the director of environmental protection when the health district in which the facility is located is not on the approved list under section 3734.08 of the Revised Code.

During the month of December, but before the first day of January of the next year, every person proposing to continue to operate an existing solid waste facility shall procure a license under this division to operate the facility for that year from the board of health of the health district in which the facility is located or, if the health district is not on the approved list under section 3734.08 of the Revised Code, from the director. The application for such a license shall be submitted to the board of health or to the director, as appropriate, on or before the last day of September of the year preceding that for which the license is sought. In addition to the application fee prescribed in division (A)(2) of this section, a person who submits an application after that date shall pay an additional ten per cent of the amount of the application fee for each week that the application is late. Late payment fees accompanying an application submitted to the board of health shall be credited to the special fund of the health district created in division (B) of section 3734.06 of the Revised Code, and late payment fees accompanying an application submitted to the director shall be credited to the general revenue fund. A person who has received a license, upon sale or disposition of a solid waste facility, and upon consent of the board of health and the director, may have the license transferred to another person. The board of health or the director may include such terms and conditions in a

license or revision to a license as are appropriate to ensure compliance with this chapter and rules adopted under it. The terms and conditions may establish the authorized maximum daily waste receipts for the facility. Limitations on maximum daily waste receipts shall be specified in cubic yards of volume for the purpose of regulating the design, construction, and operation of solid waste facilities. Terms and conditions included in a license or revision to a license by a board of health shall be consistent with, and pertain only to the subjects addressed in, the rules adopted under division (A) of section 3734.02 and division (D) of section 3734.12 of the Revised Code.

(2)(a) Except as provided in divisions (A)(2)(b), (8), and (9) of this section, each person proposing to open a new solid waste facility or to modify an existing solid waste facility shall submit an application for a permit with accompanying detail plans and specifications to the environmental protection agency for required approval under the rules adopted by the director pursuant to division (A) of section 3734.02 of the Revised Code and applicable rules adopted under division (D) of section 3734.12 of the Revised Code at least two hundred seventy days before proposed operation of the facility and shall concurrently make application for the issuance of a license under division (A)(1) of this section with the board of health of the health district in which the proposed facility is to be located.

(b) On and after the effective date of the rules adopted under division (A) of section 3734.02 of the Revised Code and division (D) of section 3734.12 of the Revised Code governing solid waste transfer facilities, each person proposing to open a new solid waste transfer facility or to modify an existing solid waste transfer facility shall submit an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation to the environmental protection agency for required approval under those rules at least two hundred seventy days before commencing proposed operation of the facility and concurrently shall make application for the issuance of a license under division (A)(1) of this section with the board of health of the health district in which the facility is located or proposed.

(c) Each application for a permit under division (A)(2)(a) or (b) of this section shall be accompanied by a nonrefundable application fee of four hundred dollars that shall be credited to the general revenue fund. Each application for an annual license under division (A)(1) or (2) of this section shall be accompanied by a nonrefundable application fee of one hundred dollars. If the application for an annual license is submitted to a board of

health on the approved list under section 3734.08 of the Revised Code, the application fee shall be credited to the special fund of the health district created in division (B) of section 3734.06 of the Revised Code. If the application for an annual license is submitted to the director, the application fee shall be credited to the general revenue fund. If a permit or license is issued, the amount of the application fee paid shall be deducted from the amount of the permit fee due under division (Q) of section 3745.11 of the Revised Code or the amount of the license fee due under division (A)(1), (2), (3), (4), or (5) of section 3734.06 of the Revised Code.

(d) As used in divisions (A)(2)(d), (e), and (f) of this section, "modify" means any of the following:

(i) Any increase of more than ten per cent in the total capacity of a solid waste facility;

(ii) Any expansion of the limits of solid waste placement at a solid waste facility;

(iii) Any increase in the depth of excavation at a solid waste facility;

(iv) Any change in the technique of waste receipt or type of waste received at a solid waste facility that may endanger human health, as determined by the director by rules adopted in accordance with Chapter 119. of the Revised Code.

Not later than forty-five days after submitting an application under division (A)(2)(a) or (b) of this section for a permit to open a new or modify an existing solid waste facility, the applicant, in conjunction with an officer or employee of the environmental protection agency, shall hold a public meeting on the application within the county in which the new or modified solid waste facility is or is proposed to be located or within a contiguous county. Not less than thirty days before holding the public meeting on the application, the applicant shall publish notice of the meeting in each newspaper of general circulation that is published in the county in which the facility is or is proposed to be located. If no newspaper of general circulation is published in the county, the applicant shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the public meeting and a general description of the proposed new or modified facility. Not later than five days after publishing the notice, the applicant shall send by certified mail a copy of the notice and the date the notice was published to the director and the legislative authority of each municipal corporation, township, and county, and to the chief executive officer of each municipal corporation, in which the facility is or is proposed to be located. At the public meeting, the applicant shall provide information and describe the application and respond

to comments or questions concerning the application, and the officer or employee of the agency shall describe the permit application process. At the public meeting, any person may submit written or oral comments on or objections to the application. Not more than thirty days after the public meeting, the applicant shall provide the director with a copy of a transcript of the full meeting, copies of any exhibits, displays, or other materials presented by the applicant at the meeting, and the original copy of any written comments submitted at the meeting.

(e) Except as provided in division (A)(2)(f) of this section, prior to taking an action, other than a proposed or final denial, upon an application submitted under division (A)(2)(a) of this section for a permit to open a new or modify an existing solid waste facility, the director shall hold a public information session and a public hearing on the application within the county in which the new or modified solid waste facility is or is proposed to be located or within a contiguous county. If the application is for a permit to open a new solid waste facility, the director shall hold the hearing not less than fourteen days after the information session. If the application is for a permit to modify an existing solid waste facility, the director may hold both the information session and the hearing on the same day unless any individual affected by the application requests in writing that the information session and the hearing not be held on the same day, in which case the director shall hold the hearing not less than fourteen days after the information session. The director shall publish notice of the public information session or public hearing not less than thirty days before holding the information session or hearing, as applicable. The notice shall be published in each newspaper of general circulation that is published in the county in which the facility is or is proposed to be located. If no newspaper of general circulation is published in the county, the director shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the information session or hearing, as applicable, and a general description of the proposed new or modified facility. At the public information session, an officer or employee of the environmental protection agency shall describe the status of the permit application and be available to respond to comments or questions concerning the application. At the public hearing, any person may submit written or oral comments on or objections to the approval of the application. The applicant, or a representative of the applicant who has knowledge of the location, construction, and operation of the facility, shall attend the information session and public hearing to respond to comments or questions concerning the facility directed to the applicant or representative by the

officer or employee of the environmental protection agency presiding at the information session and hearing.

(f) The solid waste management policy committee of a county or joint solid waste management district may adopt a resolution requesting expeditious consideration of a specific application submitted under division (A)(2)(a) of this section for a permit to modify an existing solid waste facility within the district. The resolution shall make the finding that expedited consideration of the application without the public information session and public hearing under division (A)(2)(e) of this section is in the public interest and will not endanger human health, as determined by the director by rules adopted in accordance with Chapter 119. of the Revised Code. Upon receiving such a resolution, the director, at the director's discretion, may issue a final action upon the application without holding a public information session or public hearing pursuant to division (A)(2)(e) of this section.

(3) Except as provided in division (A)(10) of this section, and unless the owner or operator of any solid waste facility, other than a solid waste transfer facility or a compost facility that accepts exclusively source separated yard wastes, that commenced operation on or before July 1, 1968, has obtained an exemption from the requirements of division (A)(3) of this section in accordance with division (G) of section 3734.02 of the Revised Code, the owner or operator shall submit to the director an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under division (A) of section 3734.02 of the Revised Code and applicable rules adopted under division (D) of section 3734.12 of the Revised Code in accordance with the following schedule:

(a) Not later than September 24, 1988, if the facility is located in the city of Garfield Heights or Parma in Cuyahoga county;

(b) Not later than December 24, 1988, if the facility is located in Delaware, Greene, Guernsey, Hamilton, Madison, Mahoning, Ottawa, or Vinton county;

(c) Not later than March 24, 1989, if the facility is located in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or Washington county, or is located in the city of Brooklyn or Cuyahoga Heights in Cuyahoga county;

(d) Not later than June 24, 1989, if the facility is located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or Summit county or is located in Cuyahoga county outside the cities of Garfield Heights, Parma, Brooklyn, and Cuyahoga Heights;

(e) Not later than September 24, 1989, if the facility is located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross county;

(f) Not later than December 24, 1989, if the facility is located in a county not listed in divisions (A)(3)(a) to (e) of this section;

(g) Notwithstanding divisions (A)(3)(a) to (f) of this section, not later than December 31, 1990, if the facility is a solid waste facility owned by a generator of solid wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated and if the facility disposes of more than one hundred thousand tons of solid wastes per year, provided that any such facility shall be subject to division (A)(5) of this section.

(4) Except as provided in divisions (A)(8), (9), and (10) of this section, unless the owner or operator of any solid waste facility for which a permit was issued after July 1, 1968, but before January 1, 1980, has obtained an exemption from the requirements of division (A)(4) of this section under division (G) of section 3734.02 of the Revised Code, the owner or operator shall submit to the director an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under those rules.

(5) The director may issue an order in accordance with Chapter 3745. of the Revised Code to the owner or operator of a solid waste facility requiring the person to submit to the director updated engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under division (A) of section 3734.02 of the Revised Code and applicable rules adopted under division (D) of section 3734.12 of the Revised Code if, in the director's judgment, conditions at the facility constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination. Any person who receives such an order shall submit the updated engineering detail plans, specifications, and information to the director within one hundred eighty days after the effective date of the order.

(6) The director shall act upon an application submitted under division (A)(3) or (4) of this section and any updated engineering plans, specifications, and information submitted under division (A)(5) of this section within one hundred eighty days after receiving them. If the director denies any such permit application, the order denying the application or disapproving the plans shall include the requirements that the owner or operator submit a plan for closure and post-closure care of the facility to the

director for approval within six months after issuance of the order, cease accepting solid wastes for disposal or transfer at the facility, and commence closure of the facility not later than one year after issuance of the order. If the director determines that closure of the facility within that one-year period would result in the unavailability of sufficient solid waste management facility capacity within the county or joint solid waste management district in which the facility is located to dispose of or transfer the solid waste generated within the district, the director in the order of denial or disapproval may postpone commencement of closure of the facility for such period of time as the director finds necessary for the board of county commissioners or directors of the district to secure access to or for there to be constructed within the district sufficient solid waste management facility capacity to meet the needs of the district, provided that the director shall certify in the director's order that postponing the date for commencement of closure will not endanger ground water or any property surrounding the facility, allow methane gas migration to occur, or cause or contribute to any other type of environmental damage.

If an emergency need for disposal capacity that may affect public health and safety exists as a result of closure of a facility under division (A)(6) of this section, the director may issue an order designating another solid waste facility to accept the wastes that would have been disposed of at the facility to be closed.

(7) If the director determines that standards more stringent than those applicable in rules adopted under division (A) of section 3734.02 of the Revised Code and division (D) of section 3734.12 of the Revised Code, or standards pertaining to subjects not specifically addressed by those rules, are necessary to ensure that a solid waste facility constructed at the proposed location will not cause a nuisance, cause or contribute to water pollution, or endanger public health or safety, the director may issue a permit for the facility with such terms and conditions as the director finds necessary to protect public health and safety and the environment. If a permit is issued, the director shall state in the order issuing it the specific findings supporting each such term or condition.

(8) Divisions (A)(1), (2)(a), (3), and (4) of this section do not apply to a solid waste compost facility that accepts exclusively source separated yard wastes and that is registered under division (C) of section 3734.02 of the Revised Code or, unless otherwise provided in rules adopted under division (N)(3) of section 3734.02 of the Revised Code, to a solid waste compost facility if the director has adopted rules establishing an alternative system for authorizing the establishment, operation, or modification of a solid waste



compost facility under that division.

(9) Divisions (A)(1) to (7) of this section do not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. The approval of plans and specifications, as applicable, and the issuance of registration certificates, permits, and licenses for those facilities are subject to sections 3734.75 to 3734.78 of the Revised Code, as applicable, and section 3734.81 of the Revised Code.

(10) Divisions (A)(3) and (4) of this section do not apply to a solid waste incinerator that was placed into operation on or before October 12, 1994, and that is not authorized to accept and treat infectious wastes pursuant to division (B) of this section.

(B)(1) No person shall operate or maintain an infectious waste treatment facility without a license issued by the board of health of the health district in which the facility is located or by the director when the health district in which the facility is located is not on the approved list under section 3734.08 of the Revised Code.

(2)(a) During the month of December, but before the first day of January of the next year, every person proposing to continue to operate an existing infectious waste treatment facility shall procure a license to operate the facility for that year from the board of health of the health district in which the facility is located or, if the health district is not on the approved list under section 3734.08 of the Revised Code, from the director. The application for such a license shall be submitted to the board of health or to the director, as appropriate, on or before the last day of September of the year preceding that for which the license is sought. In addition to the application fee prescribed in division (B)(2)(c) of this section, a person who submits an application after that date shall pay an additional ten per cent of the amount of the application fee for each week that the application is late. Late payment fees accompanying an application submitted to the board of health shall be credited to the special infectious waste fund of the health district created in division (C) of section 3734.06 of the Revised Code, and late payment fees accompanying an application submitted to the director shall be credited to the general revenue fund. A person who has received a license, upon sale or disposition of an infectious waste treatment facility and upon consent of the board of health and the director, may have the license transferred to another person. The board of health or the director may include such terms and conditions in a license or revision to a license as are appropriate to ensure compliance with the infectious waste provisions of this chapter and rules adopted under them.

(b) Each person proposing to open a new infectious waste treatment

facility or to modify an existing infectious waste treatment facility shall submit an application for a permit with accompanying detail plans and specifications to the environmental protection agency for required approval under the rules adopted by the director pursuant to section 3734.021 of the Revised Code two hundred seventy days before proposed operation of the facility and concurrently shall make application for a license with the board of health of the health district in which the facility is or is proposed to be located. Not later than ninety days after receiving a complete application under division (B)(2)(b) of this section for a permit to open a new infectious waste treatment facility or modify an existing infectious waste treatment facility to expand its treatment capacity, or receiving a complete application under division (A)(2)(a) of this section for a permit to open a new solid waste incineration facility, or modify an existing solid waste incineration facility to also treat infectious wastes or to increase its infectious waste treatment capacity, that pertains to a facility for which a notation authorizing infectious waste treatment is included or proposed to be included in the solid waste incineration facility's license pursuant to division (B)(3) of this section, the director shall hold a public hearing on the application within the county in which the new or modified infectious waste or solid waste facility is or is proposed to be located or within a contiguous county. Not less than thirty days before holding the public hearing on the application, the director shall publish notice of the hearing in each newspaper that has general circulation and that is published in the county in which the facility is or is proposed to be located. If there is no newspaper that has general circulation and that is published in the county, the director shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the public hearing and a general description of the proposed new or modified facility. At the public hearing, any person may submit written or oral comments on or objections to the approval or disapproval of the application. The applicant, or a representative of the applicant who has knowledge of the location, construction, and operation of the facility, shall attend the public hearing to respond to comments or questions concerning the facility directed to the applicant or representative by the officer or employee of the environmental protection agency presiding at the hearing.

(c) Each application for a permit under division (B)(2)(b) of this section shall be accompanied by a nonrefundable application fee of four hundred dollars that shall be credited to the general revenue fund. Each application for an annual license under division (B)(2)(a) of this section shall be accompanied by a nonrefundable application fee of one hundred dollars. If

the application for an annual license is submitted to a board of health on the approved list under section 3734.08 of the Revised Code, the application fee shall be credited to the special infectious waste fund of the health district created in division (C) of section 3734.06 of the Revised Code. If the application for an annual license is submitted to the director, the application fee shall be credited to the general revenue fund. If a permit or license is issued, the amount of the application fee paid shall be deducted from the amount of the permit fee due under division (Q) of section 3745.11 of the Revised Code or the amount of the license fee due under division (C) of section 3734.06 of the Revised Code.

(d) The director may issue an order in accordance with Chapter 3745. of the Revised Code to the owner or operator of an infectious waste treatment facility requiring the person to submit to the director updated engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under section 3734.021 of the Revised Code if, in the director's judgment, conditions at the facility constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination. Any person who receives such an order shall submit the updated engineering detail plans, specifications, and information to the director within one hundred eighty days after the effective date of the order.

(e) The director shall act on any updated engineering plans, specifications, and information submitted under division (B)(2)(d) of this section within one hundred eighty days after receiving them. If the director disapproves any such updated engineering plans, specifications, and information, the director shall include in the order disapproving the plans the requirement that the owner or operator cease accepting infectious wastes for treatment at the facility.

(3) Division (B) of this section does not apply to a generator of infectious wastes that meets any of the following conditions:

(a) Treats, by methods, techniques, and practices established by rules adopted under division (B)(2)(a) of section 3734.021 of the Revised Code, any of the following wastes:

(i) Infectious wastes that are generated on any premises that are owned or operated by the generator;

(ii) Infectious wastes that are generated by a generator who has staff privileges at a hospital as defined in section 3727.01 of the Revised Code;

(iii) Infectious wastes that are generated in providing care to a patient by an emergency medical services organization as defined in section 4765.01 of

the Revised Code.

(b) Holds a license or renewal of a license to operate a crematory facility issued under Chapter 4717. and a permit issued under Chapter 3704. of the Revised Code;

(c) Treats or disposes of dead animals or parts thereof, or the blood of animals, and is subject to any of the following:

(i) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended;

(ii) Chapter 918. of the Revised Code;

(iii) Chapter 953. of the Revised Code.

Nothing in division (B) of this section requires a facility that holds a license issued under division (A) of this section as a solid waste facility and that also treats infectious wastes by the same method, technique, or process to obtain a license under division (B) of this section as an infectious waste treatment facility. However, the solid waste facility license for the facility shall include the notation that the facility also treats infectious wastes.

The director shall not issue a permit to open a new solid waste incineration facility unless the proposed facility complies with the requirements for the location of new infectious waste incineration facilities established in rules adopted under division (B)(2)(b) of section 3734.021 of the Revised Code.

(C) Except for a facility or activity described in division (E)(3) of section 3734.02 of the Revised Code, a person who proposes to establish or operate a hazardous waste facility shall submit a complete application for a hazardous waste facility installation and operation permit and accompanying detail plans, specifications, and such information as the director may require to the environmental protection agency at least one hundred eighty days before the proposed beginning of operation of the facility. The applicant shall notify by certified mail the legislative authority of each municipal corporation, township, and county in which the facility is proposed to be located of the submission of the application within ten days after the submission or at such earlier time as the director may establish by rule. If the application is for a proposed new hazardous waste disposal or thermal treatment facility, the applicant also shall give actual notice of the general design and purpose of the facility to the legislative authority of each municipal corporation, township, and county in which the facility is proposed to be located at least ninety days before the permit application is submitted to the environmental protection agency.

In accordance with rules adopted under section 3734.12 of the Revised Code, prior to the submission of a complete application for a hazardous

waste facility installation and operation permit, the applicant shall hold at least one meeting in the township or municipal corporation in which the facility is proposed to be located, whichever is geographically closer to the proposed location of the facility. The meeting shall be open to the public and shall be held to inform the community of the proposed hazardous waste management activities and to solicit questions from the community concerning the activities.

(D)(1) Except as provided in section 3734.123 of the Revised Code, upon receipt of a complete application for a hazardous waste facility installation and operation permit under division (C) of this section, the director shall consider the application and accompanying information to determine whether the application complies with agency rules and the requirements of division (D)(2) of this section. After making a determination, the director shall issue either a draft permit or a notice of intent to deny the permit. The director, in accordance with rules adopted under section 3734.12 of the Revised Code or with rules adopted to implement Chapter 3745. of the Revised Code, shall provide public notice of the application and the draft permit or the notice of intent to deny the permit, provide an opportunity for public comments, and, if significant interest is shown, schedule a public meeting in the county in which the facility is proposed to be located and give public notice of the date, time, and location of the public meeting in a newspaper of general circulation in that county.

(2) The director shall not approve an application for a hazardous waste facility installation and operation permit or an application for a modification under division (I)(3) of this section unless the director finds and determines as follows:

(a) The nature and volume of the waste to be treated, stored, or disposed of at the facility;

(b) That the facility complies with the director's hazardous waste standards adopted pursuant to section 3734.12 of the Revised Code;

(c) That the facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of various alternatives, and other pertinent considerations;

(d) That the facility represents the minimum risk of all of the following:

(i) Fires or explosions from treatment, storage, or disposal methods;

(ii) Release of hazardous waste during transportation of hazardous waste to or from the facility;

(iii) Adverse impact on the public health and safety.

(e) That the facility will comply with this chapter and Chapters 3704.

and 6111. of the Revised Code and all rules and standards adopted under them;

(f) That if the owner of the facility, the operator of the facility, or any other person in a position with the facility from which the person may influence the installation and operation of the facility has been involved in any prior activity involving transportation, treatment, storage, or disposal of hazardous waste, that person has a history of compliance with this chapter and Chapters 3704. and 6111. of the Revised Code and all rules and standards adopted under them, the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and all regulations adopted under it, and similar laws and rules of other states if any such prior operation was located in another state that demonstrates sufficient reliability, expertise, and competency to operate a hazardous waste facility under the applicable provisions of this chapter and Chapters 3704. and 6111. of the Revised Code, the applicable rules and standards adopted under them, and terms and conditions of a hazardous waste facility installation and operation permit, given the potential for harm to the public health and safety and the environment that could result from the irresponsible operation of the facility. For off-site facilities, as defined in section 3734.41 of the Revised Code, the director may use the investigative reports of the attorney general prepared pursuant to section 3734.42 of the Revised Code as a basis for making a finding and determination under division (D)(2)(f) of this section.

(g) That the active areas within a new hazardous waste facility where acute hazardous waste as listed in 40 C.F.R. 261.33 (e), as amended, or organic waste that is toxic and is listed under 40 C.F.R. 261, as amended, is being stored, treated, or disposed of and where the aggregate of the storage design capacity and the disposal design capacity of all hazardous waste in those areas is greater than two hundred fifty thousand gallons, are not located or operated within any of the following:

- (i) Two thousand feet of any residence, school, hospital, jail, or prison;
- (ii) Any naturally occurring wetland;
- (iii) Any flood hazard area if the applicant cannot show that the facility will be designed, constructed, operated, and maintained to prevent washout by a one-hundred-year flood.

Division (D)(2)(g) of this section does not apply to the facility of any applicant who demonstrates to the director that the limitations specified in that division are not necessary because of the nature or volume of the waste and the manner of management applied, the facility will impose no substantial danger to the health and safety of persons occupying the structures listed in division (D)(2)(g)(i) of this section, and the facility is to

be located or operated in an area where the proposed hazardous waste activities will not be incompatible with existing land uses in the area.

(h) That the facility will not be located within the boundaries of a state park established or dedicated under Chapter ~~1541.~~ 1546. of the Revised Code, a state park purchase area established under section ~~1541.02~~ 1546.06 of the Revised Code, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any candidate area located in this state identified for potential inclusion in the national park system in the edition of the "national park system plan" submitted under paragraph (b) of section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended, current at the time of filing of the application for the permit, unless the facility will be used exclusively for the storage of hazardous waste generated within the park or recreation area in conjunction with the operation of the park or recreation area. Division (D)(2)(h) of this section does not apply to the facility of any applicant for modification of a permit unless the modification application proposes to increase the land area included in the facility or to increase the quantity of hazardous waste that will be treated, stored, or disposed of at the facility.

(3) Not later than one hundred eighty days after the end of the public comment period, the director, without prior hearing, shall issue or deny the permit in accordance with Chapter 3745. of the Revised Code. If the director approves an application for a hazardous waste facility installation and operation permit, the director shall issue the permit, upon such terms and conditions as the director finds are necessary to ensure the construction and operation of the hazardous waste facility in accordance with the standards of this section.

(E) No political subdivision of this state shall require any additional zoning or other approval, consent, permit, certificate, or condition for the construction or operation of a hazardous waste facility authorized by a hazardous waste facility installation and operation permit issued pursuant to this chapter, nor shall any political subdivision adopt or enforce any law, ordinance, or rule that in any way alters, impairs, or limits the authority granted in the permit.

(F) The director may issue a single hazardous waste facility installation and operation permit to a person who operates two or more adjoining facilities where hazardous waste is stored, treated, or disposed of if the application includes detail plans, specifications, and information on all facilities. For the purposes of this section, "adjoining" means sharing a

common boundary, separated only by a public road, or in such proximity that the director determines that the issuance of a single permit will not create a hazard to the public health or safety or the environment.

(G) No person shall falsify or fail to keep or submit any plans, specifications, data, reports, records, manifests, or other information required to be kept or submitted to the director by this chapter or the rules adopted under it.

(H)(1) Each person who holds an installation and operation permit issued under this section and who wishes to obtain a permit renewal shall submit a completed application for an installation and operation permit renewal and any necessary accompanying general plans, detail plans, specifications, and such information as the director may require to the director no later than one hundred eighty days prior to the expiration date of the existing permit or upon a later date prior to the expiration of the existing permit if the permittee can demonstrate good cause for the late submittal. The director shall consider the application and accompanying information, inspection reports of the facility, results of performance tests, a report regarding the facility's compliance or noncompliance with the terms and conditions of its permit and rules adopted by the director under this chapter, and such other information as is relevant to the operation of the facility and shall issue a draft renewal permit or a notice of intent to deny the renewal permit. The director, in accordance with rules adopted under this section or with rules adopted to implement Chapter 3745. of the Revised Code, shall give public notice of the application and draft renewal permit or notice of intent to deny the renewal permit, provide for the opportunity for public comments within a specified time period, schedule a public meeting in the county in which the facility is located if significant interest is shown, and give public notice of the public meeting.

(2) Within sixty days after the public meeting or close of the public comment period, the director, without prior hearing, shall issue or deny the renewal permit in accordance with Chapter 3745. of the Revised Code. The director shall not issue a renewal permit unless the director determines that the facility under the existing permit has a history of compliance with this chapter, rules adopted under it, the existing permit, or orders entered to enforce such requirements that demonstrates sufficient reliability, expertise, and competency to operate the facility henceforth under this chapter, rules adopted under it, and the renewal permit. If the director approves an application for a renewal permit, the director shall issue the permit subject to the payment of the annual permit fee required under division (E) of section 3734.02 of the Revised Code and upon such terms and conditions as the



director finds are reasonable to ensure that continued operation, maintenance, closure, and post-closure care of the hazardous waste facility are in accordance with the rules adopted under section 3734.12 of the Revised Code.

(3) An installation and operation permit renewal application submitted to the director that also contains or would constitute an application for a modification shall be acted upon by the director in accordance with division (I) of this section in the same manner as an application for a modification. In approving or disapproving the renewal portion of a permit renewal application containing an application for a modification, the director shall apply the criteria established under division (H)(2) of this section.

(4) An application for renewal or modification of a permit that does not contain an application for a modification as described in divisions (I)(3)(a) to (d) of this section shall not be subject to division (D)(2) of this section.

(I)(1) As used in this section, "modification" means a change or alteration to a hazardous waste facility or its operations that is inconsistent with or not authorized by its existing permit or authorization to operate. Modifications shall be classified as Class 1, 2, or 3 modifications in accordance with rules adopted under division (K) of this section. Modifications classified as Class 3 modifications, in accordance with rules adopted under that division, shall be further classified by the director as either Class 3 modifications that are to be approved or disapproved by the director under divisions (I)(3)(a) to (d) of this section or as Class 3 modifications that are to be approved or disapproved by the director under division (I)(5) of this section. Not later than thirty days after receiving a request for a modification under division (I)(4) of this section that is not listed in Appendix I to 40 C.F.R. 270.42 or in rules adopted under division (K) of this section, the director shall classify the modification and shall notify the owner or operator of the facility requesting the modification of the classification. Notwithstanding any other law to the contrary, a modification that involves the transfer of a hazardous waste facility installation and operation permit to a new owner or operator for any off-site facility as defined in section 3734.41 of the Revised Code shall be classified as a Class 3 modification. The transfer of a hazardous waste facility installation and operation permit to a new owner or operator for a facility that is not an off-site facility shall be classified as a Class 1 modification requiring prior approval of the director.

(2) Except as provided in section 3734.123 of the Revised Code, a hazardous waste facility installation and operation permit may be modified at the request of the director or upon the written request of the permittee

only if any of the following applies:

(a) The permittee desires to accomplish alterations, additions, or deletions to the permitted facility or to undertake alterations, additions, deletions, or activities that are inconsistent with or not authorized by the existing permit;

(b) New information or data justify permit conditions in addition to or different from those in the existing permit;

(c) The standards, criteria, or rules upon which the existing permit is based have been changed by new, amended, or rescinded standards, criteria, or rules, or by judicial decision after the existing permit was issued, and the change justifies permit conditions in addition to or different from those in the existing permit;

(d) The permittee proposes to transfer the permit to another person.

(3) The director shall approve or disapprove an application for a modification in accordance with division (D)(2) of this section and rules adopted under division (K) of this section for all of the following categories of Class 3 modifications:

(a) Authority to conduct treatment, storage, or disposal at a site, location, or tract of land that has not been authorized for the proposed category of treatment, storage, or disposal activity by the facility's permit;

(b) Modification or addition of a hazardous waste management unit, as defined in rules adopted under section 3734.12 of the Revised Code, that results in an increase in a facility's storage capacity of more than twenty-five per cent over the capacity authorized by the facility's permit, an increase in a facility's treatment rate of more than twenty-five per cent over the rate so authorized, or an increase in a facility's disposal capacity over the capacity so authorized. The authorized disposal capacity for a facility shall be calculated from the approved design plans for the disposal units at that facility. In no case during a five-year period shall a facility's storage capacity or treatment rate be modified to increase by more than twenty-five per cent in the aggregate without the director's approval in accordance with division (D)(2) of this section. Notwithstanding any provision of division (I) of this section to the contrary, a request for modification of a facility's annual total waste receipt limit shall be classified and approved or disapproved by the director under division (I)(5) of this section.

(c) Authority to add any of the following categories of regulated activities not previously authorized at a facility by the facility's permit: storage at a facility not previously authorized to store hazardous waste, treatment at a facility not previously authorized to treat hazardous waste, or disposal at a facility not previously authorized to dispose of hazardous

waste; or authority to add a category of hazardous waste management unit not previously authorized at the facility by the facility's permit. Notwithstanding any provision of division (I) of this section to the contrary, a request for authority to add or to modify an activity or a hazardous waste management unit for the purposes of performing a corrective action shall be classified and approved or disapproved by the director under division (I)(5) of this section.

(d) Authority to treat, store, or dispose of waste types listed or characterized as reactive or explosive, in rules adopted under section 3734.12 of the Revised Code, or any acute hazardous waste listed in 40 C.F.R. 261.33(e), as amended, at a facility not previously authorized to treat, store, or dispose of those types of wastes by the facility's permit unless the requested authority is limited to wastes that no longer exhibit characteristics meeting the criteria for listing or characterization as reactive or explosive wastes, or for listing as acute hazardous waste, but still are required to carry those waste codes as established in rules adopted under section 3734.12 of the Revised Code because of the requirements established in 40 C.F.R. 261(a) and (e), as amended, that is, the "mixture," "derived-from," or "contained-in" regulations.

(4) A written request for a modification from the permittee shall be submitted to the director and shall contain such information as is necessary to support the request. Requests for modifications shall be acted upon by the director in accordance with this section and rules adopted under it.

(5) Class 1 modification applications that require prior approval of the director, as provided in division (I)(1) of this section or as determined in accordance with rules adopted under division (K) of this section, Class 2 modification applications, and Class 3 modification applications that are not described in divisions (I)(3)(a) to (d) of this section shall be approved or disapproved by the director in accordance with rules adopted under division (K) of this section. The board of county commissioners of the county, the board of township trustees of the township, and the city manager or mayor of the municipal corporation in which a hazardous waste facility is located shall receive notification of any application for a modification for that facility and shall be considered as interested persons with respect to the director's consideration of the application.

As used in division (I) of this section:

(a) "Owner" means the person who owns a majority or controlling interest in a facility.

(b) "Operator" means the person who is responsible for the overall operation of a facility.

The director shall approve or disapprove an application for a Class 1 modification that requires the director's approval within sixty days after receiving the request for modification. The director shall approve or disapprove an application for a Class 2 modification within three hundred days after receiving the request for modification. The director shall approve or disapprove an application for a Class 3 modification within three hundred sixty-five days after receiving the request for modification.

(6) The approval or disapproval by the director of a Class 1 modification application is not a final action that is appealable under Chapter 3745. of the Revised Code. The approval or disapproval by the director of a Class 2 modification or a Class 3 modification is a final action that is appealable under that chapter. In approving or disapproving a request for a modification, the director shall consider all comments pertaining to the request that are received during the public comment period and the public meetings. The administrative record for appeal of a final action by the director in approving or disapproving a request for a modification shall include all comments received during the public comment period relating to the request for modification, written materials submitted at the public meetings relating to the request, and any other documents related to the director's action.

(7) Notwithstanding any other provision of law to the contrary, a change or alteration to a hazardous waste facility described in division (E)(3)(a) or (b) of section 3734.02 of the Revised Code, or its operations, is a modification for the purposes of this section. An application for a modification at such a facility shall be submitted, classified, and approved or disapproved in accordance with divisions (I)(1) to (6) of this section in the same manner as a modification to a hazardous waste facility installation and operation permit.

(J)(1) Except as provided in division (J)(2) of this section, an owner or operator of a hazardous waste facility that is operating in accordance with a permit by rule under rules adopted by the director under division (E)(3)(b) of section 3734.02 of the Revised Code shall submit either a hazardous waste facility installation and operation permit application for the facility or a modification application, whichever is required under division (J)(1)(a) or (b) of this section, within one hundred eighty days after the director has requested the application or upon a later date if the owner or operator demonstrates to the director good cause for the late submittal.

(a) If the owner or operator does not have a hazardous waste facility installation and operation permit for any hazardous waste treatment, storage, or disposal activities at the facility, the owner or operator shall submit an

application for such a permit to the director for the activities authorized by the permit by rule. Notwithstanding any other provision of law to the contrary, the director shall approve or disapprove the application for the permit in accordance with the procedures governing the approval or disapproval of permit renewals under division (H) of this section.

(b) If the owner or operator has a hazardous waste facility installation and operation permit for hazardous waste treatment, storage, or disposal activities at the facility other than those authorized by the permit by rule, the owner or operator shall submit to the director a request for modification in accordance with division (I) of this section. Notwithstanding any other provision of law to the contrary, the director shall approve or disapprove the modification application in accordance with division (I)(5) of this section.

(2) The owner or operator of a boiler or industrial furnace that is conducting thermal treatment activities in accordance with a permit by rule under rules adopted by the director under division (E)(3)(b) of section 3734.02 of the Revised Code shall submit a hazardous waste facility installation and operation permit application if the owner or operator does not have such a permit for any hazardous waste treatment, storage, or disposal activities at the facility or, if the owner or operator has such a permit for hazardous waste treatment, storage, or disposal activities at the facility other than thermal treatment activities authorized by the permit by rule, a modification application to add those activities authorized by the permit by rule, whichever is applicable, within one hundred eighty days after the director has requested the submission of the application or upon a later date if the owner or operator demonstrates to the director good cause for the late submittal. The application shall be accompanied by information necessary to support the request. The director shall approve or disapprove an application for a hazardous waste facility installation and operation permit in accordance with division (D) of this section and approve or disapprove an application for a modification in accordance with division (I)(3) of this section, except that the director shall not disapprove an application for the thermal treatment activities on the basis of the criteria set forth in division (D)(2)(g) or (h) of this section.

(3) As used in division (J) of this section:

(a) "Modification application" means a request for a modification submitted in accordance with division (I) of this section.

(b) "Thermal treatment," "boiler," and "industrial furnace" have the same meanings as in rules adopted under section 3734.12 of the Revised Code.

(K) The director shall adopt, and may amend, suspend, or rescind, rules

in accordance with Chapter 119. of the Revised Code in order to implement divisions (H) and (I) of this section. Except when in actual conflict with this section, rules governing the classification of and procedures for the modification of hazardous waste facility installation and operation permits shall be substantively and procedurally identical to the regulations governing hazardous waste facility permitting and permit modifications adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended.

Sec. 3734.11. (A) No person shall violate any section of this chapter, any rule adopted under it, or any order issued under section 3734.13 of the Revised Code.

(B) No person who holds a permit or license issued under this chapter shall violate any of the terms and conditions of the permit or license.

(C) No person shall operate a solid waste facility or portion of such a facility within the boundaries of a state park established or dedicated under Chapter ~~1541.~~ 1546. of the Revised Code, a state park purchase area established under section ~~1541.02~~ 1546.06 of the Revised Code, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any candidate area located in this state and identified for potential inclusion in the national park system in the edition of the "national park system plan" submitted under paragraph (b) of section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended, current at the time of filing of the application for the permit, unless either of the following applies:

(1) The facility was operating on December 21, 1988, under an operating license issued under section 3734.05 of the Revised Code;

(2) The facility is used only for disposal of solid wastes generated within the park or recreation area in accordance with a permit or license issued under section 3734.05 of the Revised Code.

(D) No person shall make any false material statement or representation in any affidavit, disclosure form, or other document required to be submitted to the attorney general by this chapter or any rule adopted under it.

Sec. 3767.32. (A) No person, regardless of intent, shall deposit litter or cause litter to be deposited on any public property, on private property not owned by the person, or in or on waters of the state unless one of the following applies:

(1) The person is directed to do so by a public official as part of a litter collection drive;

(2) Except as provided in division (B) of this section, the person deposits the litter in a litter receptacle in a manner that prevents its being carried away by the elements;

(3) The person is issued a permit or license covering the litter pursuant to Chapter 3734. or 6111. of the Revised Code.

(B) No person, without privilege to do so, shall knowingly deposit litter, or cause it to be deposited, in a litter receptacle located on any public property or on any private property not owned by the person unless one of the following applies:

(1) The litter was generated or located on the property on which the litter receptacle is located;

(2) The person is directed to do so by a public official as part of a litter collection drive;

(3) The person is directed to do so by a person whom the person reasonably believes to have the privilege to use the litter receptacle;

(4) The litter consists of any of the following:

(a) The contents of a litter bag or container of a type and size customarily carried and used in a motor vehicle;

(b) The contents of an ash tray of a type customarily installed or carried and used in a motor vehicle;

(c) Beverage containers and food sacks, wrappings, and containers of a type and in an amount that reasonably may be expected to be generated during routine commuting or business or recreational travel by a motor vehicle;

(d) Beverage containers, food sacks, wrappings, containers, and other materials of a type and in an amount that reasonably may be expected to be generated during a routine day by a person and deposited in a litter receptacle by a casual passerby.

(C)(1) As used in division (B)(1) of this section, "public property" includes any private property open to the public for the conduct of business, the provision of a service, or upon the payment of a fee, but does not include any private property to which the public otherwise does not have a right of access.

(2) As used in division (B)(4) of this section, "casual passerby" means a person who does not have depositing litter in a litter receptacle as the person's primary reason for traveling to or by the property on which the litter receptacle is located.

(D) As used in this section:

(1) "Litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass, or anything

else of an unsightly or unsanitary nature.

(2) "Deposit" means to throw, drop, discard, or place.

(3) "Litter receptacle" means a dumpster, trash can, trash bin, garbage can, or similar container in which litter is deposited for removal.

(E) This section may be enforced by any sheriff, deputy sheriff, police officer of a municipal corporation, police constable or officer of a township, or township or joint police district, wildlife officer designated under section 1531.13 of the Revised Code, ~~park officer, forest officer, preserve natural resources officer~~ appointed under section 1501.24 of the Revised Code, forest-fire investigator appointed under section 1503.09 of the Revised Code, conservancy district police officer, inspector of nuisances of a county, or any other law enforcement officer within the law enforcement officer's jurisdiction.

Sec. 3937.42. (A) The chief or head law enforcement officer of any federal, state, or local law enforcement agency or a prosecuting attorney of any county may request any insurance company, or agent authorized by the company to act on its behalf, that has investigated or is investigating a claim involving motor vehicle insurance or vessel insurance to release any information in its possession relevant to the claim. The company or agent shall release the information that is requested in writing by the law enforcement officer.

(B) If an insurance company, or agent authorized by the company to act on its behalf, has reason to suspect that a loss involving a motor vehicle or vessel that is insured by the company is part of a fraudulent scheme to obtain control of insurance proceeds, the company or agent shall notify a law enforcement officer or a prosecuting attorney of any county having jurisdiction over the alleged fraud.

(C) An insurance company, or agent authorized by the company to act on its behalf, shall release any information requested in writing pursuant to division (A) of this section and cooperate with the officer or a prosecuting attorney of any county authorized to request the information. The company or agent shall take such action as may be reasonably requested of it by the officer or a prosecuting attorney of any county and shall permit any other person ordered by a court to inspect any information that is specifically requested by the court.

The information that may be requested pursuant to this section may include, but is not limited to, the following:

(1) Any insurance policy relevant to the claim under investigation and any application for such a policy;

(2) Policy premium payment records;



(3) History of previous claims involving a motor vehicle or vessel made by the insured;

(4) Material relating to the investigation of the claim, including statements of any person, proof of loss, and any other relevant evidence.

(D) If the law enforcement officer or a prosecuting attorney of any county mentioned in division (A) of this section has received information pursuant to this section from an insurance company, or agent authorized by the company to act on its behalf, the officer or a prosecuting attorney of any county may release to, and share with, the insurance company or agent any information in the officer's or prosecuting attorney's possession relative to the claim, upon the written request of the insurance company or agent.

(E) In the absence of fraud, recklessness, or malice, no insurance company, or agent authorized by the company to act on its behalf, is liable for damages in any civil action, including any action brought pursuant to section 1347.10 of the Revised Code for any oral or written statement made or any other action taken that is necessary to supply information required pursuant to this section.

(F) Except as otherwise provided in division (D) of this section, any officer or a prosecuting attorney of any county receiving any information furnished pursuant to this section shall hold the information in confidence and shall not disclose it to anyone except other law enforcement officers or agencies until its release is required pursuant to a criminal or civil proceeding.

(G) Any officer or a prosecuting attorney of any county referred to in division (A) of this section may testify as to any information in the officer's or prosecuting attorney's possession regarding the claim referred to in that division in any civil action in which any person seeks recovery under a policy against an insurance company.

(H) As used in this section:

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

(2) "Vessel" has the same meaning as in section ~~1547.01~~ 1546.01 of the Revised Code.

(I)(1) No person shall purposely refuse to release any information requested pursuant to this section by an officer or a prosecuting attorney of any county authorized by division (A) of this section to request the information.

(2) No person shall purposely refuse to notify an appropriate law enforcement officer or a prosecuting attorney of any county of a loss required to be reported pursuant to division (B) of this section.

(3) No person shall purposely fail to hold in confidence information required to be held in confidence by division (F) of this section.

Sec. 4167.01. As used in this chapter:

(A) "Public employer" means any of the following:

(1) The state and its instrumentalities;

(2) Any political subdivisions and their instrumentalities, including any county, county hospital, municipal corporation, city, village, township, park district, school district, state institution of higher learning, public or special district, state agency, authority, commission, or board;

(3) Any other branch of public employment not mentioned in division (A)(1) or (2) of this section.

(B) "Public employee" means any individual who engages to furnish services subject to the direction and control of a public employer, including those individuals working for a private employer who has contracted with a public employer and over whom the national labor relations board has declined jurisdiction. "Public employee" does not mean any of the following:

(1) A firefighter, an emergency medical technician-basic, an emergency medical technician-intermediate, a paramedic, or a peace officer employed by a public employer as defined in division (A)(2) of this section, any member of the organized militia ordered to duty by state authority pursuant to Chapter 5923. of the Revised Code, or a firefighter, an emergency medical technician-basic, an emergency medical technician-intermediate, or a paramedic employed by a private employer that is organized as a nonprofit fire company or life squad that contracts with a public employer to provide fire protection or emergency medical services;

(2) Any person employed as a correctional officer in a county or municipal corporation correctional institution, whether the county or municipal corporation solely or in conjunction with each other operates the institution;

(3) Any person who engages to furnish services subject to the direction and control of a public employer but does not receive compensation, either directly or indirectly, for those services;

(4) Any ~~forest officer, park officer, watercraft~~ forest-fire investigator, natural resources officer, wildlife officer, or preserve officer.

(C) "Public employee representative" means an employee organization certified by the state employment relations board under section 4117.05 of the Revised Code as the exclusive representative of the public employees in a bargaining unit.

(D) "Employment risk reduction standard" means a standard which

requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe and healthful employment and places of employment.

(E) "Ohio employment risk reduction standard" means any risk reduction standard adopted or issued under this chapter.

(F) "Undue hardship" means any requirement imposed under this chapter or a rule or order issued thereunder that would require a public employer to take an action with significant difficulty or expense when considered in light of all of the following factors:

(1) The nature and cost of the action required under this chapter;

(2) The overall financial resources of the public employer involved in the action;

(3) The number of persons employed by the public employer at the particular location where the action may be required;

(4) The effect on expenses and resources or the impact otherwise of the action required upon the operations of the public employer at the location where the action may be required;

(5) The overall size of the public employer with respect to the number of its public employees;

(6) The number, type, and location of the public employer's operations, including the composition, structure, and functions of the workforce of the public entity;

(7) The geographic separateness, administrative, or fiscal relationship of the public employer's operations to the whole public employer.

Sec. 4303.182. (A) Except as otherwise provided in divisions (B) to (K) of this section, permit D-6 shall be issued to the holder of an A-1-A, A-2, A-3a, C-2, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, or D-7 permit to allow sale under that permit as follows:

(1) Between the hours of ten a.m. and midnight on Sunday if sale during those hours has been approved under question (C)(1), (2), or (3) of section 4301.351 or 4301.354 of the Revised Code, under question (B)(2) of section 4301.355 of the Revised Code, or under section 4301.356 of the Revised Code and has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code, under the restrictions of that authorization;

(2) Between the hours of eleven a.m. and midnight on Sunday, if sale during those hours has been approved on or after October 16, 2009, under question (B)(1), (2), or (3) of section 4301.351 or 4301.354 of the Revised Code, under question (B)(2) of section 4301.355 of the Revised Code, or

under section 4301.356 of the Revised Code and has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code, under the restrictions of that authorization;

(3) Between the hours of eleven a.m. and midnight on Sunday if sale between the hours of one p.m. and midnight was approved before October 16, 2009, under question (B)(1), (2), or (3) of section 4301.351 or 4301.354 of the Revised Code, under question (B)(2) of section 4301.355 of the Revised Code, or under section 4301.356 of the Revised Code and has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code, under the other restrictions of that authorization.

(B) Permit D-6 shall be issued to the holder of any permit, including a D-4a and D-5d permit, authorizing the sale of intoxicating liquor issued for a premises located at any publicly owned airport, as defined in section 4563.01 of the Revised Code, at which commercial airline companies operate regularly scheduled flights on which space is available to the public, to allow sale under such permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(C) Permit D-6 shall be issued to the holder of a D-5a permit, and to the holder of a D-3 or D-3a permit who is the owner or operator of a hotel or motel that is required to be licensed under section 3731.03 of the Revised Code, that contains at least fifty rooms for registered transient guests, and that has on its premises a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and is affiliated with the hotel or motel and within or contiguous to the hotel or motel and serving food within the hotel or motel, to allow sale under such permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(D) The holder of a D-6 permit that is issued to a sports facility may make sales under the permit between the hours of eleven a.m. and midnight on any Sunday on which a professional baseball, basketball, football, hockey, or soccer game is being played at the sports facility. As used in this division, "sports facility" means a stadium or arena that has a seating capacity of at least four thousand and that is owned or leased by a professional baseball, basketball, football, hockey, or soccer franchise or any combination of those franchises.

(E) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of beer or intoxicating liquor and that is issued to a

premises located in or at the Ohio history connection area or the state fairgrounds, as defined in division (B) of section 4301.40 of the Revised Code, to allow sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(F) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of intoxicating liquor and that is issued to an outdoor performing arts center to allow sale under that permit between the hours of one p.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361 of the Revised Code. A D-6 permit issued under this division is subject to the results of an election, held after the D-6 permit is issued, on question (B)(4) as set forth in section 4301.351 of the Revised Code. Following the end of the period during which an election may be held on question (B)(4) as set forth in that section, sales of intoxicating liquor may continue at an outdoor performing arts center under a D-6 permit issued under this division, unless an election on that question is held during the permitted period and a majority of the voters voting in the precinct on that question vote "no."

As used in this division, "outdoor performing arts center" means an outdoor performing arts center that is located on not less than eight hundred acres of land and that is open for performances from the first day of April to the last day of October of each year.

(G) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of beer or intoxicating liquor and that is issued to a golf course owned by the state, a conservancy district, a park district created under Chapter 1545. of the Revised Code, or another political subdivision to allow sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(H) Permit D-6 shall be issued to the holder of a D-5g permit to allow sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(I) Permit D-6 shall be issued to the holder of any D permit for a premises that is licensed under Chapter 3717. of the Revised Code and that is located at a ski area to allow sale under the D-6 permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

As used in this division, "ski area" means a ski area as defined in section

4169.01 of the Revised Code, provided that the passenger tramway operator at that area is registered under section 4169.03 of the Revised Code.

(J) Permit D-6 shall be issued to the holder of any permit that is described in division (A) of this section for a permit premises that is located in a community entertainment district, as defined in section 4301.80 of the Revised Code, that was approved by the legislative authority of a municipal corporation under that section between October 1 and October 15, 2005, to allow sale under the permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(K) A D-6 permit shall be issued to the holder of any D permit for a premises that is licensed under Chapter 3717. of the Revised Code and that is located in a state park to allow sales under the D-6 permit between the hours of ten a.m. and midnight on Sunday, whether or not those sales have been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

As used in this division, "state park" means a state park that is established or dedicated under Chapter ~~1541.~~ 1546. of the Revised Code and that has a working farm on its property.

(L) If the restriction to licensed premises where the sale of food and other goods and services exceeds fifty per cent of the total gross receipts of the permit holder at the premises is applicable, the division of liquor control may accept an affidavit from the permit holder to show the proportion of the permit holder's gross receipts derived from the sale of food and other goods and services. If the liquor control commission determines that affidavit to have been false, it shall revoke the permits of the permit holder at the premises concerned.

(M) The fee for the D-6 permit is five hundred dollars when it is issued to the holder of an A-1-A, A-2, A-3a, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, or D-7 permit. The fee for the D-6 permit is four hundred dollars when it is issued to the holder of a C-2 permit.

Sec. 4501.24. There is hereby created in the state treasury the scenic rivers protection fund. The fund shall consist of the contributions not to exceed forty dollars that are paid to the registrar of motor vehicles by applicants who voluntarily choose to obtain scenic rivers license plates pursuant to section 4503.56 of the Revised Code.

The contributions deposited in the fund shall be used by the department of natural resources to help finance wild, scenic, and recreational river areas conservation, education, corridor protection, restoration, and habitat

enhancement and clean-up projects along rivers in those areas. The chief of the division of parks and watercraft in the department may expend money in the fund for the acquisition of wild, scenic, and recreational river areas, for the maintenance, protection, and administration of such areas, and for construction of facilities within those areas. All investment earnings of the fund shall be credited to the fund.

As used in this section, "wild river areas," "scenic river areas," and "recreational river areas" have the same meanings as in section ~~1547.01~~ 1546.01 of the Revised Code.

Sec. 4503.575. (A) The owner or lessee of any passenger car, noncommercial motor vehicle, recreational vehicle, noncommercial trailer used exclusively to transport a boat between a place of storage and a marina or around a marina, or other vehicle of a class approved by the registrar of motor vehicles may apply to the registrar for the registration of the vehicle and issuance of Ohio state parks license plates. The application for Ohio state parks license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application and compliance with division (B) of this section, the registrar shall issue to the applicant the appropriate vehicle registration, Ohio state parks license plates, and a validation sticker, or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed on the license plates, Ohio state parks license plates shall be inscribed with identifying words or markings designed by the division of parks and ~~recreation~~ watercraft of the department of natural resources and approved by the registrar. Ohio state parks license plates shall bear county identification stickers that identify the county of registration by name or number.

(B) Ohio state parks license plates and a validation sticker or, when applicable, a validation sticker alone shall be issued upon receipt of an application for registration of a motor vehicle submitted under this section and a contribution as provided in division (C) of this section, payment of the regular license tax as prescribed under section 4503.04 of the Revised Code, any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, any applicable additional fee prescribed by section 4503.40 or 4503.42 of the Revised Code, and an additional fee of ten dollars, and compliance with all other applicable laws relating to the registration of motor vehicles.

(C) For each application for registration and registration renewal that the registrar receives under this section, the registrar shall collect a

contribution in an amount not to exceed forty dollars as determined by the chief of the division of parks and ~~recreation~~ watercraft. The registrar shall transmit this contribution to the treasurer of state for deposit in the state park fund created in section ~~1541.22~~ 1546.21 of the Revised Code.

The additional fee of ten dollars described in division (B) of this section shall be for the purpose of compensating the bureau of motor vehicles for additional services required in issuing license plates under this section. The registrar shall transmit that fee to the treasurer of state for deposit into the state treasury to the credit of the bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

Sec. 4505.09. (A)(1) The clerk of a court of common pleas shall charge and retain fees as follows:

(a) Five dollars for each certificate of title that is not applied for within thirty days after the later of the assignment or delivery of the motor vehicle described in it. The entire fee shall be retained by the clerk.

(b) Fifteen dollars for each certificate of title or duplicate certificate of title including the issuance of a memorandum certificate of title, or authorization to print a non-negotiable evidence of ownership described in division (G) of section 4505.08 of the Revised Code, non-negotiable evidence of ownership printed by the clerk under division (H) of that section, and notation of any lien on a certificate of title that is applied for at the same time as the certificate of title. The clerk shall retain eleven dollars and fifty cents of that fee for each certificate of title when there is a notation of a lien or security interest on the certificate of title, twelve dollars and twenty-five cents when there is no lien or security interest noted on the certificate of title, and eleven dollars and fifty cents for each duplicate certificate of title.

(c) Four dollars and fifty cents for each certificate of title with no security interest noted that is issued to a licensed motor vehicle dealer for resale purposes and, in addition, a separate fee of fifty cents. The clerk shall retain two dollars and twenty-five cents of that fee.

(d) Five dollars for each memorandum certificate of title or non-negotiable evidence of ownership that is applied for separately. The clerk shall retain that entire fee.

(2) The fees that are not retained by the clerk shall be paid to the registrar of motor vehicles by monthly returns, which shall be forwarded to the registrar not later than the fifth day of the month next succeeding that in which the certificate is issued or that in which the registrar is notified of a lien or cancellation of a lien.

(B)(1) The registrar shall pay twenty-five cents of the amount received



for each certificate of title issued to a motor vehicle dealer for resale, one dollar for certificates of title issued with a lien or security interest noted on the certificate of title, and twenty-five cents for each certificate of title with no lien or security interest noted on the certificate of title into the state bureau of motor vehicles fund established in section 4501.25 of the Revised Code.

(2) Fifty cents of the amount received for each certificate of title shall be paid by the registrar as follows:

(a) Four cents shall be paid into the state treasury to the credit of the motor vehicle dealers board fund, which is hereby created. All investment earnings of the fund shall be credited to the fund. The moneys in the motor vehicle dealers board fund shall be used by the motor vehicle dealers board created under section 4517.30 of the Revised Code, together with other moneys appropriated to it, in the exercise of its powers and the performance of its duties under Chapter 4517. of the Revised Code, except that the director of budget and management may transfer excess money from the motor vehicle dealers board fund to the bureau of motor vehicles fund if the registrar determines that the amount of money in the motor vehicle dealers board fund, together with other moneys appropriated to the board, exceeds the amount required for the exercise of its powers and the performance of its duties under Chapter 4517. of the Revised Code and requests the director to make the transfer.

(b) Twenty-one cents shall be paid into the highway operating fund.

(c) Twenty-five cents shall be paid into the state treasury to the credit of the motor vehicle sales audit fund, which is hereby created. The moneys in the fund shall be used by the tax commissioner together with other funds available to the commissioner to conduct a continuing investigation of sales and use tax returns filed for motor vehicles in order to determine if sales and use tax liability has been satisfied. The commissioner shall refer cases of apparent violations of section 2921.13 of the Revised Code made in connection with the titling or sale of a motor vehicle and cases of any other apparent violations of the sales or use tax law to the appropriate county prosecutor whenever the commissioner considers it advisable.

(3) Two dollars of the amount received by the registrar under divisions (A)(1)(a), (b), and (d) of this section and one dollar and fifty cents of the amount received by the registrar under division (A)(1)(c) of this section for each certificate of title shall be paid into the state treasury to the credit of the automated title processing fund, which is hereby created and which shall consist of moneys collected under division (B)(3) of this section and under sections 1548.10 and 4519.59 of the Revised Code. All investment earnings

of the fund shall be credited to the fund. The moneys in the fund shall be used as follows:

(a) Except for moneys collected under section 1548.10 of the Revised Code and as provided in division (B)(3)(c) of this section, moneys collected under division (B)(3) of this section shall be used to implement and maintain an automated title processing system for the issuance of motor vehicle, off-highway motorcycle, and all-purpose vehicle certificates of title in the offices of the clerks of the courts of common pleas.

(b) Moneys collected under section 1548.10 of the Revised Code shall be used to issue marine certificates of title in the offices of the clerks of the courts of common pleas as provided in Chapter 1548. of the Revised Code.

(c) Moneys collected under division (B)(3) of this section shall be used in accordance with section 4505.25 of the Revised Code to implement Sub. S.B. 59 of the 124th general assembly.

(4) The registrar shall pay the fifty-cent separate fee collected from a licensed motor vehicle dealer under division (A)(1)(c) of this section into the title defect recision fund created by section 1345.52 of the Revised Code.

(C)(1) The automated title processing board is hereby created consisting of the registrar or the registrar's representative, a person selected by the registrar, the president of the Ohio clerks of court association or the president's representative, and two clerks of courts of common pleas appointed by the governor. The director of budget and management or the director's designee, the chief of the division of parks and watercraft in the department of natural resources or the chief's designee, and the tax commissioner or the commissioner's designee shall be nonvoting members of the board. The purpose of the board is to facilitate the operation and maintenance of an automated title processing system and approve the procurement of automated title processing system equipment and ribbons, cartridges, or other devices necessary for the operation of that equipment. Voting members of the board, excluding the registrar or the registrar's representative, shall serve without compensation, but shall be reimbursed for travel and other necessary expenses incurred in the conduct of their official duties. The registrar or the registrar's representative shall receive neither compensation nor reimbursement as a board member.

(2) The automated title processing board shall determine each of the following:

(a) The automated title processing equipment and certificates of title requirements for each county;

(b) The payment of expenses that may be incurred by the counties in

implementing an automated title processing system;

(c) The repayment to the counties for existing title processing equipment;

(d) With the approval of the director of public safety, the award of grants from the automated title processing fund to the clerk of courts of any county who employs a person who assists with the design of, updates to, tests of, installation of, or any other activity related to, an automated title processing system. Any grant awarded under division (C)(2)(d) of this section shall be deposited into the appropriate county certificate of title administration fund created under section 325.33 of the Revised Code and shall not be used to supplant any other funds.

(3) The registrar shall purchase, lease, or otherwise acquire any automated title processing equipment and certificates of title that the board determines are necessary from moneys in the automated title processing fund established by division (B)(3) of this section.

(D) All counties shall conform to the requirements of the registrar regarding the operation of their automated title processing system for motor vehicle titles, certificates of title for off-highway motorcycles and all-purpose vehicles, and certificates of title for watercraft and outboard motors.

Sec. 4517.03. (A) A place of business that is used for selling, displaying, offering for sale, or dealing in motor vehicles shall be considered as used exclusively for those purposes even though snowmobiles, farm machinery, outdoor power equipment, watercraft and related products, or products manufactured or distributed by a motor vehicle manufacturer with which the motor vehicle dealer has a franchise agreement are sold or displayed there, or if repair, accessory, gasoline and oil, storage, parts, service, or paint departments are maintained there, or such products or services are provided there, if the departments are operated or the products or services are provided for the business of selling, displaying, offering for sale, or dealing in motor vehicles. Places of business or departments in a place of business used to dismantle, salvage, or rebuild motor vehicles by means of using used parts, are not considered as being maintained for the purpose of assisting or furthering the selling, displaying, offering for sale, or dealing in motor vehicles. A place of business shall be considered as used exclusively for selling, displaying, offering for sale, or dealing in motor vehicles even though a business owned by a motor vehicle leasing dealer or a motor vehicle renting dealer is located at the place of business.

(B)(1)(a) No new motor vehicle dealer shall sell, display, offer for sale, or deal in motor vehicles at any place except an established place of

business that is used exclusively for the purpose of selling, displaying, offering for sale, or dealing in motor vehicles. The place of business shall have space, under roof, for the display of at least one new motor vehicle. The established place of business or, if the dealer operates a remote service facility, the dealer's remote service facility shall have facilities and space for the inspection, servicing, and repair of at least one motor vehicle. However a new motor vehicle dealer selling manufactured or mobile homes is exempt from the requirement that a place of business have space, under roof, for the display of at least one new motor vehicle and facilities and space for the inspection, servicing, and repair of at least one motor vehicle.

(b) A new motor vehicle dealer does not violate division (B)(1) of this section if a customer of the new motor vehicle dealer executes purchase or lease documentation at a location other than the new motor vehicle dealer's established place of business.

(c) A commercial transaction involving the sale or lease by a new motor vehicle dealer of a new or used heavy duty vehicle, as defined in 49 C.F.R. 523.6, is deemed to have taken place at the new motor vehicle dealer's established place of business if the sale or lease is negotiated and the documents are executed at the customer's business location.

(2) A licensed new motor vehicle dealer may operate a remote service facility with the consent of the manufacturer and only to perform repairs, warranty work, recall work, and maintenance on motor vehicles as part of the dealer's franchised and licensed new motor vehicle dealership. The remote service facility shall be included on the new motor vehicle dealer's license and be deemed to be part of the dealer's licensed location.

(3) No person shall use a remote service facility for selling, displaying, or offering for sale motor vehicles.

(C) No used motor vehicle dealer shall sell, display, offer for sale, or deal in motor vehicles at any place except an established place of business that is used exclusively for the purpose of selling, displaying, offering for sale, or dealing in motor vehicles.

(D) No motor vehicle leasing dealer shall make a motor vehicle available for use by another, in the manner described in division (M) of section 4517.01 of the Revised Code, at any place except an established place of business that is used for leasing motor vehicles; except that a motor vehicle leasing dealer who is also a new motor vehicle dealer or used motor vehicle dealer may lease motor vehicles at the same place of business at which the dealer sells, offers for sale, or deals in new or used motor vehicles.

(E) No motor vehicle leasing dealer or motor vehicle renting dealer shall

sell a motor vehicle within ninety days after a certificate of title to the motor vehicle is issued to the dealer, except as follows:

(1) A salvage certificate of title may be issued to replace the original certificate of title.

(2) A motor vehicle leasing dealer may sell a motor vehicle to another motor vehicle leasing dealer at the end of a sublease pursuant to that sublease.

(3) A motor vehicle leasing dealer may sell a motor vehicle previously titled to an ultimate purchaser to another licensed motor vehicle dealer.

(4) A motor vehicle leasing dealer may sell a motor vehicle when the motor vehicle has been titled in the dealer's name or in the name of an entity affiliated with the dealer in this state or another state for a cumulative period of ninety days.

(F) No distributor shall distribute new motor vehicles to new motor vehicle dealers at any place except an established place of business that is used exclusively for the purpose of distributing new motor vehicles to new motor vehicle dealers; except that a distributor who is also a new motor vehicle dealer may distribute new motor vehicles at the same place of business at which the distributor sells, displays, offers for sale, or deals in new motor vehicles.

(G) No person, firm, or corporation that sells, displays, or offers for sale tent-type fold-out camping trailers is subject to the requirement that the person's, firm's, or corporation's place of business be used exclusively for the purpose of selling, displaying, offering for sale, or dealing in motor vehicles. No person, firm, or corporation that sells, displays, or offers for sale tent-type fold-out camping trailers, trailers, semitrailers, or park trailers is subject to the requirement that the place of business have space, under roof, for the display of at least one new motor vehicle and facilities and space for the inspection, servicing, and repair of at least one motor vehicle.

(H) Nothing in this section shall be construed to prohibit persons licensed under this chapter from making sales calls.

(I) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

(J) As used in this section:

(1) "Motor vehicle leasing dealer" has the same meaning as in section 4517.01 of the Revised Code.

(2) "Motor vehicle renting dealer" has the same meaning as in section 4549.65 of the Revised Code.

(3) "Watercraft" has the same meaning as in section ~~1547.01~~ 1546.01 of the Revised Code.

Sec. 4585.31. As used in sections 4585.31 to 4585.34 of the Revised Code, "owner of any property" or "owner of the property" means an owner, lessee, or other person entitled to possession of the property.

The owner of any property on which a watercraft or outboard motor valued at less than ten thousand dollars has been left for six months without permission may sell the watercraft or motor at public auction and recover the owner's maintenance or repair charges, including parts and labor charges and dockage or storage charges, if all of the following conditions are met:

(A) The owner of the property applies for a search of the records of the division of parks and watercraft in the department of natural resources for the name and address of the owner of the watercraft or motor and for a search for any lien or mortgage thereon.

(B) Upon receiving the results of the searches, the owner of the property sends notice by certified mail, return receipt requested, to:

(1) The last known address of the owner of the watercraft or motor, to remove the watercraft or motor;

(2) Any lienholder or mortgagee, stating where the watercraft or motor is located and any maintenance or repair charges, including parts and labor charges and dockage or storage charges. Unless the lienholder or mortgagee redeems the watercraft or motor within forty-five days after the return receipt is received by the sender, the lien or mortgage is invalid. The lienholder or mortgagee may, to the extent of the lienholder's or mortgagee's previously secured interest, assert a claim for any amount deposited in the county treasury for the watercraft or motor pursuant to section 4585.33 of the Revised Code.

(C) The watercraft or motor remains unredeemed by the owner, lienholder, or mortgagee for forty-five days after the return receipts are recovered by the sender.

(D) The owner of the property requests a watercraft dealer certified in accordance with section 1547.543 of the Revised Code or an independent marine surveyor and appraiser to appraise the watercraft or motor and secures written confirmation that the fair market value of the watercraft or motor is less than ten thousand dollars.

(E) The owner of the property advertises that the watercraft or motor will be sold at public auction. The advertisement of sale shall be published once a week for two consecutive weeks in the auction section of a newspaper of general circulation in the county where the watercraft or motor has been left without permission. The advertisement shall include a description of the watercraft or motor, the name of the owner, and the date, time, and place of the sale.

(F) An auction sale is conducted on the property where the watercraft or motor was left without permission of the owner of the property, at which the highest bidder is the purchaser of the watercraft or motor. The owner of the property shall provide a reasonable period of time prior to the sale for prospective purchasers to examine the watercraft or motor. The owner of the property may bid at the sale.

(G) Immediately after the auction sale, the owner of the property executes an affidavit in triplicate, on a form prescribed by the secretary of state and provided by the clerk of courts, stating:

(1) That the requirements of this section have been met;

(2) The length of time that the watercraft or motor was left on the owner's property without permission, as of the date of the auction sale;

(3) The expenses incurred by the owner of the property in connection with the watercraft or motor as of the date of the auction sale, including the expenses of conducting the sale and, if the property is operated as a place of storage for charge, any accrued dockage or storage charges and any maintenance or repair charges, including parts and labor charges;

(4) The name and address of the purchaser of the watercraft or motor at the auction sale and the amount of the purchaser's bid.

(H) Upon payment of the bid price by the purchaser, the owner of the property presents the affidavit in triplicate required by division (G) of this section, the written confirmation of value required by division (D) of this section, and the return receipts required by division (B) of this section to the purchaser of the watercraft or motor.

Sec. 4585.32. The purchaser of any watercraft or outboard motor at an auction sale held pursuant to section 4585.31 of the Revised Code may obtain a certificate of title to the watercraft or motor, free of all liens, mortgages, and other encumbrances, if ~~he~~ the purchaser presents the affidavit in triplicate, written confirmation of value, and return receipts obtained in accordance with division (H) of section 4585.31 of the Revised Code to the clerk of courts of the county in which the auction sale was held. The clerk shall issue the certificate of title upon presentation of such documentation and payment of the fee prescribed in section 1548.10 of the Revised Code. The clerk shall retain one copy of the affidavit and shall mail one copy to the county treasurer and one copy to the chief of the division of parks and watercraft in the department of natural resources.

Sec. 5311.01. As used in this chapter, except as otherwise provided:

(A) "Agent" means any person who represents a developer or who acts for or on behalf of a developer in selling or offering to sell any ownership interest in a condominium development. "Agent" does not include an

attorney whose representation of a developer consists solely of rendering legal services.

(B) "Additional property" means land, including surface and air rights, or improvements to land that are described in an original declaration and that may be added in the future to an expandable condominium property.

(C) "Affiliate of a developer" means any person who controls a developer or is controlled by a developer. For the purposes of this division:

(1) A person "controls" a developer if any of the following applies:

(a) The person is a general partner, officer, member, manager, director, or employer of the developer.

(b) The person owns, controls, holds with power to vote, or holds proxies representing more than twenty per cent of the voting interest in the developer, doing so either directly or indirectly, acting in concert with one or more other persons, or through one or more subsidiaries.

(c) The person controls, in any manner, the election of a majority of the developer's directors.

(d) The person has contributed more than twenty per cent of the developer's capital.

(2) A person "is controlled by" a developer if any of the following applies:

(a) The developer is a general partner, member, manager, officer, director, or employer of the person.

(b) The developer owns, controls, holds with power to vote, or holds proxies representing more than twenty per cent of the voting interest in the person, doing so either directly or indirectly, acting in concert with one or more other persons, or through one or more subsidiaries.

(c) The developer controls, in any manner, the election of a majority of the person's directors.

(d) The developer has contributed more than twenty per cent of the person's capital.

(3) "Control" does not exist for purposes of division (C)(1) or (2) of this section if a person or developer holds any power described in either of those divisions solely as security for an obligation and that power is not exercised.

(D) "Body of water" means a stream, lake, pond, marsh, river, or other body of natural or artificial surface water.

(E) "Common assessments" means assessments that are charged proportionately against all units for common purposes.

(F) "Common elements" means, unless otherwise provided in the declaration, the following parts of the condominium property:

(1) The land described in the declaration;



(2) All other areas, facilities, places, and structures that are not part of a unit, including, but not limited to, the following:

(a) Foundations, columns, girders, beams, supports, supporting walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of buildings;

(b) Basements, yards, gardens, parking areas, garages, and storage spaces;

(c) Premises for the lodging of janitors or persons in charge of the property;

(d) Installations of central services, including, but not limited to, power, light, gas, hot and cold water, heating, refrigeration, air conditioning, and incinerating;

(e) Elevators, tanks, pumps, motors, fans, compressors, ducts, and, in general, all apparatus and installations existing for common use;

(f) Community and commercial facilities that are not listed in division (F)(2)(a), (b), (c), (d), or (e) of this section but provided for in the declaration;

(g) All parts of the condominium property that are not listed in division (F)(2)(a), (b), (c), (d), (e), or (f) of this section that are necessary or convenient to its existence, maintenance, and safety, that are normally in common use, or that have been designated as common elements in the declaration or drawings.

(G) "Common expenses" means expenses designated as common expenses in this chapter or in the declaration.

(H) "Common losses" means the amount by which the common expenses during any period of time exceeds the common assessments and common profits during that period.

(I) "Common profits" means the amount by which the total income received from any of the following exceeds expenses allocable to the particular income, rental, fee, or charge:

(1) Assessments charged for special benefits to specific units;

(2) Rents received from the rental of equipment or space in common elements;

(3) Any other fee, charge, or income other than common assessments.

(J) "Common surplus" means the amount by which common assessments collected during any period exceed common expenses.

(K) "Condominium" means a form of real property ownership in which a declaration has been filed submitting the property to the condominium form of ownership pursuant to this chapter and under which each owner has an individual ownership interest in a unit with the right to exclusive

possession of that unit and an undivided ownership interest with the other unit owners in the common elements of the condominium property.

(L) "Condominium development" means a condominium property in which two or more individual residential or water slip units, together with their undivided interests in the common elements of the property, are offered for sale pursuant to a common promotional plan.

(M) "Condominium instruments" means the declaration and accompanying drawings and plans, the bylaws of the unit owners association, the condominium development disclosure statement described in section 5311.26 of the Revised Code, any contracts pertaining to the management of the condominium property, and any other documents, contracts, or instruments establishing ownership of or exerting control over a condominium property or unit.

(N) "Condominium ownership interest" means a fee simple estate or a ninety-nine-year leasehold estate, renewable forever, in a unit, together with an appurtenant undivided interest in the common elements.

(O) "Condominium property" means all real and personal property submitted to the provisions of this chapter, including land, the buildings, improvements, and structures on that land, the land under a water slip, the buildings, improvements, and structures that form or that are utilized in connection with that water slip, and all easements, rights, and appurtenances belonging to the land or to the land under a water slip.

(P) "Conversion condominium development" means a condominium development that was operated as a rental property and occupied by tenants immediately prior to the submission of the property to the provisions of this chapter.

(Q) "Convertible unit" means a unit that may be converted into one or more units and common elements, including limited common elements.

(R) "Declaration" means the instrument by which property is submitted to the provisions of this chapter. "Declaration" includes all amendments to that declaration.

(S) "Developer" means any person who directly or indirectly sells or offers for sale condominium ownership interests in a condominium development. "Developer" includes the declarant of a condominium development and any successor to that declarant who stands in the same relation to the condominium development as the declarant.

(T) "Exclusive use area" means common elements that the declaration reserves for delegation by the board of directors to the use of a certain unit or units, to the exclusion of other units.

(U) "Expandable condominium property" means a condominium

property in which the original declaration reserves the right to add additional property.

(V) "Leasehold condominium development" means a condominium development in which each unit owner owns a ninety-nine-year leasehold estate, renewable forever, in the owner's unit, in the land upon which that unit is situated, or in both, together with an undivided leasehold interest in the common elements, with all leasehold interests due to expire at the same time.

(W) "Limited common elements" means the common elements that the declaration designates as being reserved for use by a certain unit or units, to the exclusion of the other units.

(X) "Offer" includes any inducement or solicitation to encourage a person to acquire a condominium ownership interest in a condominium development.

(Y) "Par value" means a number, expressed in dollars, points, or as a percentage or fraction, attached to a unit by the declaration.

(Z) "Purchaser" means a person who purchases a condominium ownership interest for consideration pursuant to an agreement for the conveyance or transfer of that interest for consideration.

(AA) "Sale of a condominium ownership interest" means the execution by both parties of an agreement for the conveyance or transfer for consideration of a condominium ownership interest. "Sale of a condominium ownership interest" does not include a transfer of one or more units from the developer to another developer, a subsidiary of the developer, or a financial institution for the purpose of facilitating the sale or development of the remaining or unsold portion of the condominium property or additional property.

(BB) "Unit" means the part of the condominium property that is designated as a unit in the declaration, is delineated as a unit on the drawings prepared pursuant to section 5311.07 of the Revised Code, and is one of the following:

(1) A residential unit, in which the designated part of the condominium property is devoted in whole or in part to use as a residential dwelling consisting of one or more rooms on one or more floors of a building. A "residential unit" may include exterior portions of the building, spaces in a carport, and parking spaces as described and designated in the declaration and drawings.

(2) A water slip unit, which consists of the land that is under the water in a water slip and the land that is under the piers or wharves that form the water slip, and that is used for the mooring of watercraft.

(3) A commercial unit in which the property is designated for separate ownership or occupancy solely for commercial purposes, industrial purposes, or other nonresidential or nonwater slip use.

(CC) "Unit owner" means a person who owns a condominium ownership interest in a unit.

(DD) "Unit owners association" means the organization that administers the condominium property and that consists of all the owners of units in a condominium property.

(EE) "Watercraft" has the same meaning as in ~~division (A) of section 1547.01~~ 1546.01 of the Revised Code.

(FF) "Water slip" means a channel of water between piers or wharves.

Sec. 5735.05. (A) To provide revenue for maintaining the state highway system; to widen existing surfaces on such highways; to resurface such highways; to pay that portion of the construction cost of a highway project which a county, township, or municipal corporation normally would be required to pay, but which the director of transportation, pursuant to division (B) of section 5531.08 of the Revised Code, determines instead will be paid from moneys in the highway operating fund; to enable the counties of the state properly to plan, maintain, and repair their roads and to pay principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for highway improvements; to enable the municipal corporations to plan, construct, reconstruct, repave, widen, maintain, repair, clear, and clean public highways, roads, and streets, and to pay the principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for highway improvements; to enable the Ohio turnpike and infrastructure commission to construct, reconstruct, maintain, and repair turnpike projects; to maintain and repair bridges and viaducts; to purchase, erect, and maintain street and traffic signs and markers; to purchase, erect, and maintain traffic lights and signals; to pay the costs apportioned to the public under sections 4907.47 and 4907.471 of the Revised Code and to supplement revenue already available for such purposes; to pay the costs incurred by the public utilities commission in administering sections 4907.47 to 4907.476 of the Revised Code; to distribute equitably among those persons using the privilege of driving motor vehicles upon such highways and streets the cost of maintaining and repairing them; to pay the interest, principal, and charges on highway capital improvements bonds and other obligations issued pursuant to Section 2m of Article VIII, Ohio Constitution, and section 151.06 of the Revised Code; to pay the interest,

principal, and charges on highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code; to pay the interest, principal, and charges on major new state infrastructure bonds and other obligations of the state issued pursuant to Section 13 of Article VIII, Ohio Constitution, and section 5531.10 of the Revised Code; to provide revenue for the purposes of sections 1547.71 to ~~1547.78~~ 1547.77 of the Revised Code; and to pay the expenses of the department of taxation incident to the administration of the motor fuel laws, a motor fuel excise tax is hereby imposed on all motor fuel dealers upon receipt of motor fuel within this state at the rate of two cents plus the cents per gallon rate on each gallon so received, to be computed in the manner set forth in section 5735.06 of the Revised Code; provided that no tax is hereby imposed upon the following transactions:

(1) The sale of dyed diesel fuel by a licensed motor fuel dealer from a location other than a retail service station provided the licensed motor fuel dealer places on the face of the delivery document or invoice, or both if both are used, a conspicuous notice stating that the fuel is dyed and is not for taxable use, and that taxable use of that fuel is subject to a penalty. The tax commissioner, by rule, may provide that any notice conforming to rules or regulations issued by the United States department of the treasury or the Internal Revenue Service is sufficient notice for the purposes of division (A)(1) of this section.

(2) The sale of K-1 kerosene to a retail service station, except when placed directly in the fuel supply tank of a motor vehicle. Such sale shall be rebuttably presumed to not be distributed or sold for use or used to generate power for the operation of motor vehicles upon the public highways or upon the waters within the boundaries of this state.

(3) The sale of motor fuel by a licensed motor fuel dealer to another licensed motor fuel dealer;

(4) The exportation of motor fuel by a licensed motor fuel dealer from this state to any other state or foreign country;

(5) The sale of motor fuel to the United States government or any of its agencies, except such tax as is permitted by it, where such sale is evidenced by an exemption certificate, in a form approved by the tax commissioner, executed by the United States government or an agency thereof certifying that the motor fuel therein identified has been purchased for the exclusive use of the United States government or its agency;

(6) The sale of motor fuel that is in the process of transportation in foreign or interstate commerce, except insofar as it may be taxable under the Constitution and statutes of the United States, and except as may be agreed

upon in writing by the dealer and the commissioner;

(7) The sale of motor fuel when sold exclusively for use in the operation of aircraft, where such sale is evidenced by an exemption certificate prescribed by the commissioner and executed by the purchaser certifying that the motor fuel purchased has been purchased for exclusive use in the operation of aircraft;

(8) The sale for exportation of motor fuel by a licensed motor fuel dealer to a licensed exporter described in division (DD)(1) of section 5735.01 of the Revised Code;

(9) The sale for exportation of motor fuel by a licensed motor fuel dealer to a licensed exporter described in division (DD)(2) of section 5735.01 of the Revised Code, provided that the destination state motor fuel tax has been paid or will be accrued and paid by the licensed motor fuel dealer.

(10) The sale to a consumer of diesel fuel, by a motor fuel dealer for delivery from a bulk lot vehicle, for consumption in operating a vessel when the use of such fuel in a vessel would otherwise qualify for a refund under section 5735.14 of the Revised Code.

Division (A)(1) of this section does not apply to the sale or distribution of dyed diesel fuel used to operate a motor vehicle on the public highways or upon water within the boundaries of this state by persons permitted under regulations of the United States department of the treasury or of the Internal Revenue Service to so use dyed diesel fuel.

(B) The two cent motor fuel tax levied by this section is also for the purpose of paying the expenses of administering and enforcing the state law relating to the registration and operation of motor vehicles.

(C) After the tax provided for by this section on the receipt of any motor fuel has been paid by the motor fuel dealer, the motor fuel may thereafter be used, sold, or resold by any person having lawful title to it, without incurring liability for such tax.

If a licensed motor fuel dealer sells motor fuel received by the licensed motor fuel dealer to another licensed motor fuel dealer, the seller may deduct on the report required by section 5735.06 of the Revised Code the number of gallons so sold for the month within which the motor fuel was sold or delivered. In this event the number of gallons is deemed to have been received by the purchaser, who shall report and pay the tax imposed thereon.

Sec. 5735.051. The general assembly finds as a fact that, of the revenues that occur from excises imposed by sections 5735.05, 5735.25, 5735.29, and 5735.30 of the Revised Code, one per cent is attributable to the operation of motor vehicles upon waters within the boundaries of this state. Of this

amount, seven-eighths shall be credited to the waterways safety fund and shall be used for the purposes of sections 1547.71 to ~~1547.78~~ 1547.77 of the Revised Code, and one-eighth shall be credited to the wildlife boater angler fund and shall be used for the purposes specified in section 1531.35 of the Revised Code.

Sec. 5735.25. To provide revenue for supplying the state's share of the cost of planning, constructing, widening, and reconstructing the state highways; for supplying the state's share of the cost of eliminating railway grade crossings upon such highways; to pay that portion of the construction cost of a highway project which a county, township, or municipal corporation normally would be required to pay, but which the director of transportation, pursuant to division (B) of section 5531.08 of the Revised Code, determines instead will be paid from moneys in the highway operating fund; to enable the counties and townships of the state to properly plan, construct, widen, reconstruct, and maintain their public highways, roads, and streets; to enable counties to pay principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for highway improvements; to enable municipal corporations to plan, construct, reconstruct, repave, widen, maintain, repair, clear, and clean public highways, roads, and streets; to enable municipal corporations to pay the principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for highway improvements; to maintain and repair bridges and viaducts; to purchase, erect, and maintain street and traffic signs and markers; to purchase, erect, and maintain traffic lights and signals; to pay the costs apportioned to the public under section 4907.47 of the Revised Code; to provide revenue for the purposes of sections 1547.71 to ~~1547.78~~ 1547.77 of the Revised Code and to supplement revenue already available for such purposes; to pay the expenses of the department of taxation incident to the administration of the motor fuel laws, to supplement revenue already available for such purposes, to pay the interest, principal, and charges on bonds and other obligations issued pursuant to Section 2g of Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised Code; and to pay the interest, principal, and charges on highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code, a motor fuel excise tax is hereby imposed on all motor fuel dealers upon their receipt of motor fuel within this state, at the rate of two cents per gallon on each gallon so received. This tax is subject to the specific exemptions set forth in this

chapter of the Revised Code. It shall be reported, computed, paid, collected, administered, enforced, and refunded, and the failure properly and correctly to report and pay the tax shall be penalized, in exactly the same manner as is provided in this chapter. Such sections relating to motor fuel excise taxes are reenacted and incorporated as if specifically set forth in this section. The tax levied by this section shall be in addition to the tax imposed under this chapter.

Sec. 5735.29. To provide revenue for supplying the state's share of the cost of constructing, widening, maintaining, and reconstructing the state highways; to maintain and repair bridges and viaducts; to purchase, erect, and maintain street and traffic signs and markers; to purchase, erect, and maintain traffic lights and signals; to pay the expense of administering and enforcing the state law relative to the registration and operation of motor vehicles; to make road improvements associated with retaining or attracting business for this state, to pay that portion of the construction cost of a highway project which a county, township, or municipal corporation normally would be required to pay, but which the director of transportation, pursuant to division (B) of section 5531.08 of the Revised Code, determines instead will be paid from moneys in the highway operating fund; to provide revenue for the purposes of sections 1547.71 to ~~1547.78~~ 1547.77 of the Revised Code; and to supplement revenue already available for such purposes, to pay the expenses of the department of taxation incident to the administration of the motor fuel laws, to supplement revenue already available for such purposes; and to pay the interest, principal, and charges on highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code; to enable the counties and townships of the state to properly plan, construct, widen, reconstruct, and maintain their public highways, roads, and streets; to enable counties to pay principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for highway improvements; to enable municipal corporations to plan, construct, reconstruct, repave, widen, maintain, repair, clear, and clean public highways, roads, and streets; to enable municipal corporations to pay the principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for highway improvements; and to pay the costs apportioned to the public under section 4907.47 of the Revised Code, a motor fuel excise tax is hereby imposed on all motor fuel dealers upon their receipt of motor fuel within the state at the rate of two cents on each gallon



so received; provided, that effective July 1, 2003, the motor fuel excise tax imposed by this section shall be at the rate of four cents on each gallon so received; effective July 1, 2004, the motor fuel excise tax imposed by this section shall be at the rate of six cents on each gallon so received; and, subject to section 5735.292 of the Revised Code, effective July 1, 2005, the motor fuel excise tax imposed by this section shall be at the rate of eight cents on each gallon so received. This tax is subject to the specific exemptions set forth in this chapter of the Revised Code. It shall be reported, computed, paid, collected, administered, enforced, and refunded, and the failure properly and correctly to report and pay the tax shall be penalized, in exactly the same manner as is provided in this chapter. Such sections relating to motor fuel excise taxes are reenacted and incorporated as if specifically set forth in this section. The tax levied by this section is in addition to any other taxes imposed under this chapter.

No municipal corporation, county, or township shall expend any revenues received from the tax levied by this section for any purpose other than one of the specific highway-related purposes stated in this section. In addition, each municipal corporation, county, or township shall use at least ninety per cent of all revenues received from the tax levied by this section to supplement, rather than supplant, other local funds used for highway-related purposes.

Sec. 5735.30. (A) For the purpose of providing funds to pay the state's share of the cost of constructing and reconstructing highways and eliminating railway grade crossings on the major thoroughfares of the state highway system and urban extensions thereof, to pay that portion of the construction cost of a highway project which a county, township, or municipal corporation normally would be required to pay, but which the director of transportation, pursuant to division (B) of section 5531.08 of the Revised Code, determines instead will be paid from moneys in the highway operating fund, to pay the interest, principal, and charges on bonds and other obligations issued pursuant to Section 2g of Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised Code, to pay the interest, principal, and charges on highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code, to provide revenues for the purposes of sections 1547.71 to ~~1547.78~~ 1547.77 of the Revised Code, and to pay the expenses of the department of taxation incident to the administration of the motor fuel laws, a motor fuel excise tax is hereby imposed on all motor fuel dealers upon their receipt of motor fuel within the state, at the rate of one cent on each gallon so received, to be reported, computed, paid, collected, administered,

enforced, refunded, and subject to the same exemptions and penalties as provided in this chapter of the Revised Code.

The tax imposed by this section shall be in addition to the tax imposed by sections 5735.05, 5735.25, and 5735.29 of the Revised Code.

(B) The treasurer of state shall place to the credit of the tax refund fund created by section 5703.052 of the Revised Code, out of receipts from the tax levied by this section, amounts equal to the refunds certified by the tax commissioner pursuant to this section. The refund provided for by division (A) of this section shall be paid from such fund. The treasurer shall then transfer the amount required by section 5735.051 of the Revised Code to the waterways safety fund and the amount required by section 5735.053 of the Revised Code to the motor fuel tax administration fund. The balance of taxes for which the liability has become fixed prior to July 1, 1955, under this section, after the credit to the tax refund fund, shall be credited to the highway operating fund.

(C)(1) The moneys derived from the tax levied by this section, after the credit and transfers required by division (B) of this section, during each calendar year, shall be credited to the highway improvement bond retirement fund created by section 5528.12 of the Revised Code, until the commissioners of the sinking fund certify to the treasurer of state, as required by section 5528.17 of the Revised Code, that there are sufficient moneys to the credit of the highway improvement bond retirement fund to meet in full all payments of interest, principal, and charges for the retirement of bonds and other obligations issued pursuant to Section 2g of Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised Code due and payable during the current calendar year and during the next succeeding calendar year.

(2) All moneys received in the state treasury from the tax levied by this section, after the credit and transfers required by division (B) of this section, shall be credited to the highway operating fund, except as provided in division (C)(3) of this section.

(3) From the date of the receipt by the treasurer of state of certification from the commissioners of the sinking fund, as required by section 5528.18 of the Revised Code, certifying that the moneys to the credit of the highway improvement bond retirement fund are sufficient to meet in full all payments of interest, principal, and charges for the retirement of all bonds and other obligations which may be issued pursuant to Section 2g of Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised Code, the moneys derived from the tax levied by this section, after the credit and transfers required by division (B) of this section, shall be credited to the

highway operating fund.

SECTION 2. That existing sections 109.71, 109.751, 109.77, 121.04, 145.01, 145.332, 154.01, 154.22, 742.63, 903.01, 1501.011, 1501.012, 1501.02, 1501.07, 1501.09, 1501.11, 1501.12, 1501.13, 1501.14, 1501.45, 1503.011, 1503.012, 1503.03, 1503.05, 1503.09, 1503.10, 1503.11, 1503.14, 1503.141, 1503.15, 1503.18, 1506.35, 1509.73, 1509.78, 1514.10, 1519.03, 1519.04, 1520.02, 1520.03, 1533.89, 1541.02, 1541.031, 1541.032, 1541.04, 1541.05, 1541.06, 1541.07, 1541.082, 1541.083, 1541.09, 1541.16, 1541.17, 1541.18, 1541.19, 1541.20, 1541.22, 1541.23, 1541.24, 1541.26, 1541.31, 1541.32, 1541.40, 1541.41, 1541.42, 1541.99, 1547.05, 1547.051, 1547.052, 1547.06, 1547.08, 1547.111, 1547.14, 1547.18, 1547.20, 1547.24, 1547.25, 1547.26, 1547.30, 1547.301, 1547.303, 1547.31, 1547.36, 1547.38, 1547.41, 1547.53, 1547.531, 1547.532, 1547.54, 1547.541, 1547.542, 1547.543, 1547.544, 1547.55, 1547.56, 1547.57, 1547.59, 1547.61, 1547.63, 1547.65, 1547.66, 1547.67, 1547.68, 1547.71, 1547.72, 1547.73, 1547.74, 1547.75, 1547.77, 1547.79, 1547.80, 1547.81, 1547.83, 1547.85, 1547.86, 1547.99, 1548.01, 1548.02, 1548.031, 1548.032, 1548.05, 1548.06, 1548.061, 1548.07, 1548.08, 1548.09, 1548.10, 1548.11, 1548.12, 1548.13, 1548.14, 1548.141, 1548.15, 1548.17, 1548.18, 1548.20, 1548.22, 1557.06, 2905.05, 2909.09, 2930.01, 2935.01, 2935.03, 2981.01, 3701.18, 3714.03, 3734.02, 3734.05, 3734.11, 3767.32, 3937.42, 4167.01, 4303.182, 4501.24, 4503.575, 4505.09, 4517.03, 4585.31, 4585.32, 5311.01, 5735.05, 5735.051, 5735.25, 5735.29, and 5735.30 and sections 1501.04, 1503.02, 1503.24, 1503.25, 1503.26, 1503.29, 1503.30, 1503.31, 1517.10, 1523.01, 1523.02, 1523.03, 1523.04, 1523.05, 1523.06, 1523.07, 1523.08, 1523.09, 1523.10, 1523.11, 1523.12, 1523.13, 1523.14, 1523.15, 1523.16, 1523.17, 1523.18, 1523.19, 1523.20, 1541.01, 1541.03, 1541.10, 1541.11, 1547.01, 1547.51, 1547.52, 1547.521, 1547.522, 1547.523, 1547.78, and 1547.87 of the Revised Code are hereby repealed.

SECTION 3. (A) It is the intent of the General Assembly on the effective date of this section to merge the Division of Parks and Recreation and the Division of Watercraft in the Department of Natural Resources into a new division known as the Division of Parks and Watercraft in the Department of Natural Resources in order to better serve the public and operate more efficiently. Any reference to the Division of Parks and Recreation or the Division of Watercraft means the Division of Parks and Watercraft created in Chapter 1546. of the Revised Code. Whenever the Division of Parks and

Recreation or Division of Watercraft or the Chief of the respective Division is referred to in a statute, contract, or other document, the reference is deemed to refer to the Division of Parks and Watercraft or the Chief of the Division of Parks and Watercraft, whichever is appropriate in context.

(B) Personnel of the Division of Parks and Recreation and the Division of Watercraft are transferred to the Division of Parks and Watercraft with all of the rights and benefits they had before the transfer.

(C) Notwithstanding any provision of law to the contrary, as part of the merger of the Division of Parks and Recreation and the Division of Watercraft into the new Division of Parks and Watercraft, all interests in real property of the Division of Parks and Recreation and Division of Watercraft are transferred to the Division of Parks and Watercraft. Notwithstanding any provision of law to the contrary, all appropriations, encumbrances, contracts, outstanding obligations, settlements, memorandums of understanding, grants, and any other agreements of the Division of Parks and Recreation and the Division of Watercraft are transferred to the Division of Parks and Watercraft. All equipment, supplies, records, and other property of the Division of Parks and Recreation and the Division of Watercraft are transferred to the Division of Parks and Watercraft.

(D) Notwithstanding any provision of law to the contrary, the Director of the Legislative Service Commission shall renumber the Administrative Code rules of the Division of Parks and Recreation and the Division of Watercraft for the newly created Division of Parks and Watercraft. The only permissible changes are to accommodate the new numbering and Division name. All Administrative Code rules of the Division of Parks and Recreation and the Division of Watercraft are enforceable by the Division of Parks and Watercraft until they are renumbered and in effect for the Division of Parks and Watercraft, at which time they are automatically rescinded.

(E) The Division of Parks and Watercraft succeeds the Division of Parks and Recreation and the Division of Watercraft in the prosecution of all criminal matters formerly under the jurisdiction of the Division of Parks and Recreation and the Division of Watercraft. The Division of Parks and Watercraft shall continue after the effective date of this section to use signs, badges, uniforms, records, documents, motor vehicles, watercraft, or any other thing or property owned or used by the Division marked with the former Division of Parks and Recreation or the Division of Watercraft. Any law enforcement officer or other official with the Division of Parks and

Watercraft wearing or using a badge, uniform, documents, motor vehicle, watercraft, or any other thing or property owned or used by the Division marked with the former Division of Parks and Recreation or the former Division of Watercraft name acts with full authority to enforce the law.

(F) The Director of Natural Resources may enter into any agreement reasonably necessary for the merger of the Division of Parks and Recreation and the Division of Watercraft into the division of parks and watercraft created in Chapter 1546. of the Revised Code.

(G) Any action or proceeding pending on the effective date of this section involving the merger of the Division of Parks and Recreation and the Division of Watercraft by this act is not affected by the merger of these Divisions and shall be prosecuted or defended in the name of the Division of Parks and Watercraft. In all such actions and proceedings, the Division of Parks and Watercraft, upon application to the court or other tribunal, shall be substituted as a party.

(H) All orders and determinations of the Chief of the Division of Parks and Recreation or the Chief of the Division of Watercraft continue in effect until modified or rescinded by the Chief of the Division of Parks and Watercraft.

(I) On the effective date of this section, the Division of Parks and Watercraft becomes successor to, assumes the obligations and authority of, and otherwise continues the Division of Parks and Recreation and the Division of Watercraft. Any business commenced but not completed by the Division of Parks and Recreation or the Division of Watercraft shall be completed by the Division of Parks and Watercraft. Any validation, cure, right, privilege, remedy, obligation, or liability is not lost or impaired solely by reason of the merger required by this act and shall be administered by the Division of Parks and Watercraft in accordance with this act.

SECTION 4. Section 4303.182 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 64 and Am. H.B. 141 of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Sub. S. B. No. 293

131st G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_