

EXECUTIVE SUMMARY FOR CHAPTER RC 2925 – DRUG OFFENSES

- Generally
 - Removed mandatory sentences throughout the draft except for the Major Drug Offender (“MDO”) specification. Moved MDO specification into each substantive offense where it is available so that it functions, if applicable, as a mandatory sentence instead.
 - Removed mandatory fines throughout the draft
 - Removed mandatory license suspensions throughout the draft that do not have a nexus to driving
 - Removed enhancements throughout the draft.
 - Changed “convicted of or pleads guilty” to “found guilty” throughout the draft
- 2925.02 – Corrupting another with drugs
 - Removed division (A)(4) dealing with conduct that is penalized by enhanced penalties and mandatory sentences.
- 2925.03 – Trafficking, aggravated trafficking in drugs
 - Removed “offer to sell” in (A)(1) so that it would be considered an “attempted” trafficking using RC 2923.02.
 - Replaced division (C) penalties with a new chart with new amounts and felony levels.
- 2925.04 – Illegal manufacture of drugs – illegal cultivation of marihuana – methamphetamine offenses.
 - Reworded division (A) for clarity.
 - Added the modifier “substantial” to (A)(2) to distinguish between people who are actually manufacturing drugs and not just someone who buys or possesses chemicals like in 2925.041.
 - Added division (C) which precludes a person from being found guilty of division (A)(2) if the person is also found guilty of violating RC 2925.041(A) if the chemicals used to illegally manufacture drugs under division (A)(2) are the same chemicals that would give rise to a charge under RC 2925.041(A).
 - Capped penalties at a 4th degree felony; changed marijuana amounts to reflect new trafficking/possession chart amounts.
- 2925.041 – Illegal assembly or possession of chemicals for manufacture of drugs
 - In division (A)(1), replaced “intent” with “purpose” because Ohio has adopted modified MPC mental states.
 - Capped penalty at a 5th degree felony.
- 2925.05 – Funding, aggravated funding of drug or marihuana trafficking
 - Reworded division (A) for clarity. Currently, division (A) has three different applicable mental states that can be confusing to read and apply. By removing the phrase “with purpose that the recipient of the money or items of value use them” and replacing “knowingly” with “purposefully,” it still retains the concept that purposefully providing money to another to obtain a controlled substance for the purpose of manufacturing drugs or selling drugs should be criminalized.

- Changed some of the drug amounts in divisions (A)(1), (2), (3), (4), (5), and (6) to reflect the new trafficking/possession chart amounts.
- Division (C)'s penalties are changed to be more proportional. Under current law, it is an F1 for funding what would otherwise be an F3 possession amount for schedule I and II drugs. Similarly, an F2 for funding what would otherwise be an F4 amount for schedule II, III, and IV and an F3 for funding what would otherwise be an F4 amount of marijuana.
- 2925.06 – Illegal administration or distribution of anabolic steroids
 - Removed division (E) because the language is dealing with prosecutorial discretion is inherent in a prosecutor's powers and does not need to be restated.
- 2925.09 – Unapproved drugs – dangerous drug offenses involving livestock
 - Added "knowingly" mental state to division (A).
- 2925.11 – Possession of controlled substances
 - Replaced division (C) penalties with a new chart with new amounts and felony levels.
- 2925.12 – Illegal use or possession of drug paraphernalia
 - Merged 2925.12, 2925.14, and 2925.141 into this section. Penalty sections for each section were merged into this new section but the substantive penalties were unaltered.
 - In division (C), removed outdated language (e.g., handbill) and other redundant language and replaced it with "publication"
- 2925.13 – Permitting Drug Abuse
 - No substantive changes except for the changes referenced above under "Generally"
- 2925.14 – Illegal use or Possession of drug paraphernalia
 - Merged into 2925.12 – Illegal use or possession of drug paraphernalia
- 2925.141 – Illegal use or possession of marijuana drug paraphernalia
 - Merged into 2925.12 – Illegal use or possession of drug paraphernalia
- 2925.22 – Deception to obtain a dangerous drug:
 - Reworded division (A) for clarity
 - In division (B)(2), changed amounts to reflect new trafficking/possession charts.
- 2925.23 – Illegal processing of drug documents
 - In division (B), replaced "intentionally" with "purposefully" because Ohio has adopted modified MPC mental states.
- 2925.24 – Tampering with drugs
 - No substantive changes
- 2925.31 – Abusing harmful intoxicants
 - In division (B), removed enhancement for prior convictions under this section.
- 2925.32 – Trafficking in harmful intoxicants – improperly dispensing or distributing nitrous oxide
 - Removed (A)(2) and changed (A)(1) to simply state "any person" rather than distinguishing the age of the offender because both (A)(1) and (A)(2) combined prohibits a person from dispensing harmful intoxicants to another person (regardless of age) if the person knows it will be abused. There is also no difference in penalty for dispensing harmful intoxicants to a minor or someone over the age of 18. Therefore, the age threshold presented in both (A)(1) and (A)(2) seems arbitrary.

- In division (E), removed old (A)(2) from being applicable to the affirmative defense provided for in division (E). Division (E)'s affirmative defense provides for a defense based on age, but this defense does not make sense in light of division old (A)(2) because no person, whether under or over 18, can dispense harmful intoxicants to another person if that person knows it will be abused.
- 2925.33 – Possessing nitrous oxide in motor vehicle
 - In new division (A), added “knowingly” mental state
- 2925.34 – Restriction against sale of or offer for sale of a pure caffeine product; misdemeanor
 - Removed “offer for sale” in new division (A). Instead, this would be considered an attempt under this section using RC 2923.02.
- 2925.36 – Illegal dispensing of drug samples
 - No substantive changes except for the changes referenced above under “Generally”
- 2925.37 – Counterfeit controlled substance offenses.
 - In division (B) and (C), removed “offer to sell” language. Instead, this would be considered an attempt under this section using RC 2923.02
 - Removed division (E) because of 1st amendment concerns.
 - In new division (D), added “knowingly” mental state.
- 2925.38 – Notice of conviction of professionally licensed person sent to regulatory or licensing board or agency.
 - No substantive changes.
- 2925.42 – Criminal forfeiture of property relating to felony drug abuse offense.
 - No substantive changes.
- 2925.50 – Conviction or acquittal under federal drug abuse control laws bar to state prosecution
 - No substantive changes.
- 2925.51 – Evidence in drug offense cases.
 - Reworded division (A) for clarity; no substantive changes.
 - Reworded division (C) for clarity; no substantive changes.
 - Divided division (E) into (E), and new divisions (F) and (G); no substantive changes.
- 2925.511 – Reimbursement for costs of positive drug tests.
 - No substantive changes.
- 2925.52 – Motion for destruction of chemicals for methamphetamine production.
 - No substantive changes.
- 2925.55 – Unlawful purchase of pseudoephedrine or ephedrine product.
 - No substantive changes made
- 2925.56 – Unlawful sale of pseudoephedrine or ephedrine product.
 - In division (A)(1) and (B)(1), removed “offer to sell” language. Instead, an offer to sell should be considered an “attempt” under this section using 2923.02
 - In division (B)(1), added “knowingly” mental state.
 - In division (C), added “knowingly” mental state.

- Merged 2925.58 [Unlawful sale of pseudoephedrine product to minor – affirmative defenses] with 2925.56 by adding new division (I). 2925.58 was an entirely separate section dedicated to affirmative defenses specifically for 2925.56.
- 2925.57 – Illegal pseudoephedrine or ephedrine product transaction scan.
 - In division (C)(1), (2), (3), and (4), added “knowingly” mental state.
- 2925.58 – Unlawful sale of pseudoephedrine product to minor – affirmative defenses
 - Removed and merged with 2925.56 [Unlawful sale of pseudoephedrine product] in new division (I) of that section.
- 2925.61 – Lawful administration of naloxone
 - No substantive changes
- 2925.62 – Safe reporting of overdoses [*NEW*]
 - Provides an affirmative defense for persons seeking, in good faith, timely emergency medical attention, either for themselves or another person, for a drug overdose if the person seeking medical attention remained with the person overdosing and the person did not obstruct law enforcement or emergency services.
 - If a person is found to be in violation of probation or community control sanction, there is a rebuttable presumption of not imposing a prison term if the person otherwise meets the criteria above.
 - If the person is found to be in violation of a postrelease control sanction, it will be considered a mitigating factor when determining the penalty if the person otherwise meets the criteria above.