

Route:

- Ohio Revised Code
- » Title [15] XV CONSERVATION OF NATURAL RESOURCES

Chapter 1517: DIVISION OF NATURAL AREAS AND PRESERVES

1517.01 Division of natural areas and preserves definitions.

As used in Chapter 1517. of the Revised Code:

(A) "Natural area" means an area of land or water which either retains to some degree or has re-established its natural character, although it need not be completely undisturbed, or has unusual flora, fauna, geological, archeological, scenic, or similar features of scientific or educational interest.

(B) "Nature preserve" means an area which is formally dedicated under section 1517.05 of the Revised Code.

Effective Date: 08-31-1970

1517.02 Chief of division - powers and duties.

There is hereby created in the department of natural resources the division of natural areas and preserves, which shall be administered by the chief of the division of natural areas and preserves. The chief shall take an oath of office and shall file in the office of the secretary of state a bond signed by the chief and by a surety approved by the governor for a sum fixed pursuant to section 121.11 of the Revised Code.

The chief shall administer a system of nature preserves. The chief shall establish a system of nature preserves through acquisition and dedication of natural areas of state or national significance, which shall include, but not be limited to, areas that represent characteristic examples of Ohio's natural landscape types and its natural vegetation and geological history. The chief shall encourage landowners to dedicate areas of unusual significance as nature preserves, and shall establish and maintain a registry of natural areas of unusual significance.

The chief may participate in watershed planning activities with other states or federal agencies.

The chief shall do the following:

(A) Formulate policies and plans for the acquisition, use, management, and protection of nature preserves;

(B) Formulate policies for the selection of areas suitable for registration;

(C) Formulate policies for the dedication of areas as nature preserves;

(D) Prepare and maintain surveys and inventories of natural areas, rare and endangered species of plants and animals, and other unique natural features. The information shall be entered in the Ohio natural heritage database, established under section 1531.04 of the Revised Code.

(E) Adopt rules for the use, visitation, and protection of nature preserves and natural areas owned or managed through easement, license, or lease by the department and administered by the division in accordance with Chapter 119. of the Revised Code;

(F) Provide facilities and improvements within the state system of nature preserves that are necessary for their visitation, use, restoration, and protection and do not impair their natural character;

(G) Provide interpretive programs and publish and disseminate information pertaining to nature preserves and natural areas for their visitation and use;

(H) Conduct and grant permits to qualified persons for the conduct of scientific research and investigations within nature preserves;

(I) Establish an appropriate system for marking nature preserves;

(J) Publish and submit to the governor and the general assembly a biennial report of the status and condition of each nature preserve, activities conducted within each preserve, and plans and recommendations for natural area preservation.

Amended by 129th General Assembly File No.28, HB 153, §101.01, eff. 9/29/2011.

Amended by 128th General Assembly File No.9, HB 1, §101.01, eff. 7/17/2009.

Effective Date: 05-03-1990; 12-30-2004; 06-27-2005; 09-29-2005; 04-06-2007

1517.021 Prohibition.

No person shall violate any rule adopted pursuant to division (E) of section 1517.02 of the Revised Code.

Effective Date: 03-23-1973

1517.03 Ohio natural areas council.

(A) There is hereby created the Ohio natural areas council to advise the director of natural resources or the director's designee on the administration of nature preserves and the preservation of natural areas.

(B) The council shall

be composed of the following members appointed by the governor with the advice and consent of the senate:

(1) One member representing natural history museums;

(2) One member representing metropolitan park districts;

(3) One member representing colleges and universities;

(4) One member representing outdoor education programs in primary and secondary education;

(5) One member representing nature centers;

(6) Two members representing the public.

Each appointed member shall be active or interested in natural area preservation. Not more than four of the appointed members shall belong to the same political party.

The director or the director's designee shall be a nonvoting ex officio member of the council.

(C) Not later than thirty days after the effective date of this amendment, the governor shall make appointments to the council. Of the initial appointments, two shall be for terms ending on the first Monday in February 2012, two shall be for terms ending on the first Monday in February 2013, two shall be for terms ending on the first Monday in February 2014, and one shall be for a term ending on the first Monday in February 2015. Thereafter, terms of office shall be for four years, with each term ending on the same day of the same month as did the term that it succeeds. A member shall hold office from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. A member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A 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.

(D) The council annually shall select from among its members a chairperson and a secretary. The department of natural resources shall furnish clerical, technical, legal, and other services required by the council in the performance of its duties.

Members of the council shall receive no compensation and shall not be reimbursed for expenses incurred as members of the council.

(E) The council shall hold at least one regular meeting every three months. Special meetings may be called by the chairperson and shall be called by the chairperson upon written request 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 and to the director. A majority of the members of the council constitutes a quorum. The council shall keep a record of its proceedings at each meeting and shall send a copy of the record to the director. The record shall be open to the public for inspection.

Amended by 129th General Assembly File No.28, HB 153, §101.01, eff. 9/29/2011.

Added by 128th General Assembly File No.47, SB 181, §1, eff. 9/13/2010.

1517.04 Duties of Ohio natural areas council.

The Ohio natural areas council shall do all of the following:

- (A) Review and make recommendations regarding criteria used by the department of natural resources for acquisition and dedication of nature preserves;
- (B) Review and make recommendations regarding inventories and registries of natural areas and preserves;
- (C) Review and make recommendations regarding departmental plans for the selection of particular natural areas for state acquisition;
- (D) Advise the chief of the division of natural areas and preserves on policies and rules governing the management, protection, and use of nature preserves;
- (E) Recommend the extent and type of visitation and use to be permitted within each nature preserve;
- (F) Advise and consult with the chief and with employees of the division of natural areas and preserves on preservation matters;

(G) Advise the chief on the program to identify and protect the state's cave resources that is established under this chapter.

Added by 128th General Assembly File No.47, SB 181, §1, eff. 9/13/2010.

1517.05 Nature preserves - uses and purposes.

The department of natural resources, for and on behalf of the state, shall acquire a system of nature preserves for the following uses and purposes:

(A) For scientific research in such fields as ecology, taxonomy, genetics, forestry, pharmacology, agriculture, soil science, geology, paleontology, conservation, and similar fields;

(B) For the teaching of biology, natural history, ecology, geology, conservation, and other subjects;

(C) As habitats for plant and animal species and communities and other natural objects;

(D) As reservoirs of natural materials;

(E) As places of natural interest and beauty;

(F) For visitation whereby persons may observe and experience natural biotic and environmental systems of the earth and their processes;

(G) To promote understanding and appreciation of the aesthetic, cultural, scientific, and spiritual values of such areas by the people of the state;

(H) For the preservation and protection of nature preserves against modification or encroachment resulting from occupation, development, or other use that would destroy their natural or aesthetic conditions.

The director of natural resources shall accept natural areas by articles of dedication or gift, provided that funds and services are available for their preservation and protection.

A nature preserve is established when articles of dedication have been filed by or at the direction of the owner of land, or a governmental agency having ownership or control thereof, in the office of the county recorder of the county in which the land is located.

Articles of dedication shall be executed by the owner of the land in the same manner and with the same effect as a conveyance of an interest in land and shall be irrevocable except as provided in this section. The county recorder may not accept articles of dedication for recording unless they have been accepted by the director of natural resources. The director may not accept articles of dedication unless they contain terms restricting the use of the land that adequately provide for its preservation and protection against modification or encroachment resulting from occupation, development, or other use that would destroy its natural or aesthetic conditions for one or more of the uses and purposes set forth in this section. Wherever possible and consistent with such preservation and protection of the land, the articles shall provide for public access in order that the maximum benefit be obtained for the uses and purposes stated in this section.

Articles of dedication may contain provisions for the management, custody, and transfer of land, provisions defining the rights of the owner or operating agency, and the department, and other provisions necessary or advisable to carry out the uses and purposes for which the land is dedicated. They may contain conditions under which the owner and the director of natural resources may agree to rescind the articles.

The attorney general, upon request of the director of natural resources, may bring an action for injunction in any court of competent jurisdiction to enforce the terms of articles of dedication.

The department may make or accept amendments of any articles of dedication upon terms and conditions that will not destroy the natural or aesthetic conditions of a preserve. If the fee simple interest in the area or preserve is not held by the state, no amendments shall be made without the written consent of the owner. Each amendment shall be recorded in the same manner as the articles of dedication.

Effective Date: 06-06-2003; 12-30-2004

1517.051 Prohibited acts.

No person shall violate any terms or conditions of the articles of dedication of a nature preserve accepted by the director and filed with the county recorder. The director may order any person to cease and desist from any such violation. No person shall violate any such order.

Effective Date: 03-23-1973

1517.06 Nature preserves to be held in trust.

Nature preserves dedicated under section 1517.05 of the Revised Code are to be held in trust, for the uses and purposes set forth in that section, for the benefit of the people of the state of present and future generations. They shall be managed and protected in the manner approved by and subject to rules established by the chief of the division of natural areas and preserves. They shall not be taken for any other use except another public use after a finding by the department of natural resources of the existence of an imperative and unavoidable public necessity for such other public use and with the approval of the governor. Except as may otherwise be provided in the articles of dedication, the department may grant, upon such terms and conditions as it may determine, an estate, interest, or right in, or dispose of, a nature preserve, but only after a finding by the department of the existence of an imperative and unavoidable public necessity for the grant or disposition and with the approval of the governor.

Effective Date: 06-06-2003

1517.07 Notice of proposed action - public hearing.

Before the department of natural resources makes any finding of the existence of an imperative and unavoidable public necessity, or grants any estate, interest, or right in a nature preserve or disposes of a nature preserve or of any estate, interest, or right therein as provided in section 1517.06 of the Revised Code, it shall give notice of the proposed action and an opportunity for any person to be heard at a public hearing in the county in which the preserve is located. In the event the preserve is located in more than one county, the public hearing shall be held in the most populous county. The notice shall be published at least once in a newspaper with a general circulation in the county in which the nature preserve is located. The notice shall set forth the substance of the proposed action and describe, with or without legal description, the nature preserve affected, and shall specify a place and time not less than thirty days after the publication for a public hearing before the department on the proposed action. All persons desiring to be heard shall have a reasonable opportunity to be heard prior to action by the department on the proposal.

Effective Date: 06-06-2003

1517.08 Dedication of natural areas.

All departments, agencies, units, instrumentalities, and political subdivisions of the state, including, counties, townships, municipal corporations, park districts, conservancy districts, universities, colleges, and school districts, may dedicate natural areas under their jurisdiction in accordance with section 1517.05 of the Revised Code.

Effective Date: 08-31-1970

1517.09 Construction of chapter.

Nothing contained in this chapter shall be construed as interfering with the purposes stated in the establishment of or pertaining to any state or local park, forest, preserve, wildlife refuge or other area or the proper management and development thereof, except that any agency administering an area dedicated as a nature preserve under section 1517.05 of the Revised Code shall be responsible for preserving the character of the area in accordance with the articles of dedication and the applicable rules with respect thereto established by the chief of the division of natural areas and preserves. Neither the dedication of an area as a nature preserve nor any action taken by the department under any of the provisions of this chapter shall void or replace any protective status under law which the area would have were it not a nature preserve and the protective provisions of this chapter shall be supplemental thereto.

Effective Date: 09-01-1976

1517.10 Preserve officers.

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

(B)

(1) Any person selected by the chief of the division of natural areas and preserves for custodial or patrol service on the lands and waters operated or administered by the division shall be employed in conformity with the law applicable to the classified civil service of the state. Subject to division (C) of this section, the chief may designate that person as a preserve officer. A preserve officer, in any nature preserve, in any natural area owned or managed through easement, license, or lease by the department of natural resources and administered by the division, and on lands owned or managed through easement, license, or lease by the department and administered by the division that are along any trail established under Chapter 1519. of the Revised Code, has the authority specified under section 2935.03 of the Revised Code for peace officers of the department of natural resources to keep the peace, to enforce all laws and rules governing those lands and waters, and to make arrests for violation of those laws and rules, provided that the authority shall be exercised on lands or waters administered by another division of the department only pursuant to an agreement with the chief of that division or to a request for assistance by an enforcement officer of that division in an emergency. A preserve officer, in or along any watercourse within, abutting, or upstream from the boundary of any area administered by the department, has the authority to enforce section 3767.32 of the Revised Code and any other laws prohibiting the dumping of refuse into or along waters and to make arrests for violation of those laws. The jurisdiction of a preserve officer shall be concurrent with that of the peace officers of the county, township, or municipal corporation in which the violation occurs.

The governor, upon the recommendation of the chief, shall issue to each preserve officer a commission indicating authority to make arrests as provided in this section.

The chief shall furnish a suitable badge to each commissioned preserve officer as evidence of the preserve officer's authority.

(2) If any person employed under this section is designated by the chief to act as an agent of the state in the collection of money resulting from the sale of licenses, fees of any nature, or other money belonging to the state, the chief shall require a surety bond from the person in an amount not less than one thousand dollars.

(3) A preserve officer may render assistance to a state or local law enforcement officer at the request of the officer or in the event of an emergency. Preserve officers serving outside the division of natural areas and preserves under this section or serving under the terms of a mutual aid compact authorized under section 1501.02 of the Revised Code shall be considered as performing services within their regular employment for the purposes of compensation, pension or indemnity fund rights, workers' compensation, and other rights or benefits to which they may be entitled as incidents of their regular employment.

Preserve officers serving outside the division of natural areas and preserves under this section or under the terms of a mutual aid compact retain personal immunity from civil liability as specified in section 9.86 of the Revised Code and shall not be considered an employee of a political subdivision for purposes of Chapter 2744. of the Revised Code. A political subdivision that uses preserve officers 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 a result of any action or omission of any preserve officer acting under this section or under a mutual aid compact.

(C)

(1) The chief of the division of natural areas and preserves shall not designate a person as a preserve officer pursuant to division (B)(1) of this section on a permanent basis, on a temporary basis, for a probationary term, or on other than a permanent basis if the person previously has been convicted of or has pleaded guilty to a felony.

(2)

(a) The chief of the division of natural areas and preserves shall terminate the employment as a preserve officer of a person designated as a preserve officer under division (B)(1) of this section if that person 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 preserve officer agrees to surrender the certificate awarded to the preserve officer under section 109.77 of the Revised Code.

(b) The chief shall suspend from employment as a preserve officer a person designated as a preserve officer under division (B)(1) of this section if that person is convicted, after trial, of a felony. If the preserve 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 preserve officer does not file a timely appeal, the chief shall terminate the employment of that preserve officer. If the preserve officer files an appeal that results in the preserve officer's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against the preserve officer, the chief shall reinstate that preserve officer. A preserve officer who is reinstated under division (C)(2)(b) of this section shall not receive any back pay unless that preserve officer's conviction of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the preserve officer of the felony.

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

(4) The suspension from employment, or the termination of the employment, of a preserve officer under division (C)(2) of this section shall be in accordance with Chapter 119. of the Revised Code.

Amended by 128th General Assembly File No.9, HB 1, §101.01, eff. 7/17/2009.

Effective Date: 01-01-2004; 04-06-2007

1517.11 Natural areas and preserves fund - use of funds.

There is hereby created in the state treasury the natural areas and preserves fund, which shall consist of moneys transferred into it under section 5747.113 of the Revised Code and of contributions made directly to it. Any person may contribute directly to the fund in addition to or independently of the income tax refund contribution system established in that section.

Moneys in the fund shall be disbursed pursuant to vouchers approved by the director of natural resources for use by the division of natural areas and preserves solely for the following purposes:

- (A) The acquisition of new or expanded natural areas and nature preserves;
- (B) Facility development in natural areas and nature preserves;
- (C) Special projects, including, but not limited to, biological inventories, research grants, and the production of interpretive material related to natural areas and nature preserves;
- (D) Routine maintenance for health and safety purposes.

Moneys appropriated from the fund shall not be used to fund salaries of permanent employees or administrative costs.

All investment earnings of the fund shall be credited to the fund.

Amended by 128th General Assembly File No.9, HB 1, §101.01, eff. 7/17/2009.

Effective Date: 06-30-1997; 04-06-2007

1517.12 Lake Katharine management trust fund.

There is hereby created the lake Katharine management trust fund, which shall be administered by the division of natural areas and preserves in the department of natural resources for preservation, management, land acquisition, and educational programs at the lake Katharine nature preserve. The moneys in the fund shall be derived from gifts, donations, bequests, and other moneys for the purposes for which the fund is created. The treasurer of state shall be the custodian of the fund, which shall not be a part of the state treasury. The principal in the fund shall not be expended. Only earnings from investments shall be expended for the purposes for which the fund is created. All disbursements from the fund shall be paid by the treasurer of state upon requisitions signed by the director of natural resources or his designee.

Effective Date: 02-11-1988

1517.13 Lake Katharine management fund.

There is hereby created in the state treasury the lake Katharine management fund. All investment earnings of the lake Katharine management trust fund created in section 1517.12 of the Revised Code shall be credited to the fund created in this section and disbursed pursuant to vouchers approved by the director of natural resources for use by the division of natural areas and preserves in the department of natural resources solely for preservation, management, land acquisition, and educational programs at the lake Katharine nature preserve.

Effective Date: 02-11-1988

1517.14 [Renumbered as 1547.81]Creating wild, scenic, or recreational river areas.

Renumbered as § 1547.81 by 128th General AssemblyFile No.9, HB 1, §101.01, eff. 7/17/2009.

Effective Date: 03-18-1999

1517.15 [Repealed].

Repealed by 128th General AssemblyFile No.9, HB 1, §105.01, eff. 7/17/2009.

1517.16 [Renumbered as 1547.82]Approving structures and channel modifications.

Renumbered as § 1547.82 by 128th General AssemblyFile No.9, HB 1, §101.01, eff. 7/17/2009.

Effective Date: 10-20-1994

1517.17 [Renumbered as 1547.83]Administering program and areas.

Renumbered as § 1547.83 by 128th General AssemblyFile No.9, HB 1, §101.01, eff. 7/17/2009.

Effective Date: 10-26-1999

1517.18 [Renumbered as 1547.84]Advisory council appointed for each area.

Renumbered as § 1547.84 by 128th General AssemblyFile No.9, HB 1, §101.01, eff. 7/17/2009.

Effective Date: 10-20-1994

1517.21 Cave definitions.

As used in sections 1517.21 to 1517.26 of the Revised Code:

(A) "Cave" means a naturally occurring void, cavity, recess, or system of interconnecting passages beneath the surface of the earth or within a cliff or ledge, including, without limitation, a grotto, rock shelter, sinkhole, cavern, pit, natural well, pothole, or subsurface water and drainage system.

(B) "Cave life" means any organism that naturally occurs in, uses, visits, or inhabits any cave, except those animals that are permitted to be taken under Chapter 1533. of the Revised Code.

(C) "Material" includes:

(1) Any speleothem, whether attached or broken, found in a cave;

- (2) Any clay or mud formation or concretion or sedimentary deposit found in a cave;
- (3) Any scallop, rill, or other corrosional or corrosional feature of a cave;
- (4) Any wall or ceiling of a cave or any other part of the speleogen.
- (D) "Owner" means any person having title to land in which a cave is located.
- (E) "Speleothem" means any stalactite, stalagmite, or other natural mineral formation or deposit occurring in a cave.
- (F) "Speleogen" means the surrounding material or bedrock in which a cave is formed, including walls, floors, ceilings, and similar related structural and geological components.
- (G) "Sinkhole" means a closed topographic depression or basin generally draining underground, including, without limitation, a blind valley, swallowhole, or sink.
- (H) "Hazard" means a risk of serious physical harm to persons or property.

Effective Date: 03-22-1989

1517.22 Protection of cave resources.

The general assembly hereby finds that caves are uncommon geologic phenomena and that the minerals deposited in them may be rare and occur in unique forms of great beauty that are irreplaceable if destroyed. Also irreplaceable are the archeological resources in caves, which are of great scientific and historic value. It is further found that species of cave life are unusual and of limited numbers; that many are rare, threatened, or endangered species; and that caves are a natural conduit for groundwater flow and are highly subject to water pollution, thus having far-reaching effects transcending man's property boundaries. It is therefore declared to be the policy of the general assembly to protect these unique and great natural, historical, scientific, and cultural resources.

Effective Date: 03-22-1989

1517.23 Chief of division - duties.

With the advice of the Ohio natural areas council created in section 1517.03 of the Revised Code, the chief of the division of natural areas and preserves shall do both of the following:

- (A) Formulate policies and plans and establish a program incorporating them for the identification and protection of the state's cave resources and adopt, amend, or rescind rules in accordance with Chapter 119. of the Revised Code to implement that program;
- (B) Provide technical assistance and management advice to owners upon request concerning the protection of caves on their land.

Amended by 128th General Assembly File No.47, SB 181, §1, eff. 9/13/2010.

Effective Date: 03-22-1989; 12-30-2004; 06-27-2005

1517.24 Prohibited acts.

(A) Without the express written permission of the owner and, if the owner has leased the land, without the express written permission of the lessee, no person shall knowingly:

(1) Break, break off, crack, carve on, write on, mark on, burn, remove, or in any other manner destroy, deface, mark, or disturb the surfaces of any cave or any natural material found in any cave, whether attached or broken, including, without limitation, speleothems, speleogens, and sedimentary deposits;

(2) Break, force, tamper with, or otherwise disturb any lock, door, gate, or other device designed to limit control, or prevent access to or entry into a cave;

(3) Remove, deface, or tamper with any posted sign giving notice against unauthorized access to or presence in a cave or citing any of the provisions of sections 1517.21 to 1517.26 or division (B) of section 1517.99 of the Revised Code;

(4) Place refuse, garbage, dead animals, sewage, or toxic substances harmful to cave life or humans in a cave;

(5) Burn within a cave any substance other than acetylene gas burned in a carbide lamp that produces smoke or gas that is harmful to cave life;

(6) Use any door, gate, or other device designed to limit, control, or prevent access to or entry into a cave that does not allow free and unimpeded passage of air, water, and cave life;

(7) Excavate or remove historic or prehistoric ruins, burial grounds, or archaeological or paleontological sites found in a cave, including, without limitation, saltpeter workings, relics, inscriptions, fossilized footprints, and bones;

(8) Remove, kill, harm, or disturb any cave life found within a cave.

(B) Without the express written permission of the owner and, if the owner has leased the land, without the express written permission of the lessee, no person shall purposely destroy, injure, or deface historic or prehistoric ruins, burial grounds, or archaeological or paleontological sites found in a cave, including, without limitation, saltpeter workings, relics, inscriptions, fossilized footprints, and bones.

Effective Date: 03-22-1989

1517.25 Sale of speleothems collected from caves prohibited.

No person shall sell or offer for sale speleothems collected from caves in this state.

Effective Date: 03-22-1989

1517.26 Immunity.

(A) Owners and, if the owner has leased the land, the lessee, are not liable for injuries, death, or loss sustained by any permittee on their land if no charge has been made. By granting permission for entry, the owner or lessee does not:

(1) Extend to the permittee any assurance that the premises are safe for such purposes;

(2) Confer on the permittee the legal status of an invitee or licensee to whom a duty of care is owed;

(3) Assume responsibility for or incur liability for any injury, death, or loss to person or property caused by an act or omission of a permittee.

(B) This section does not limit the liability which otherwise exists for injury, death, or loss to persons or property caused by an act or omission of the owner or lessee as follows:

(1) Negligent failure to warn the permittee against a hazard of which the owner or lessee had actual knowledge prior to the permittee's entry on the land;

(2) Willful or wanton misconduct;

(3) Intentionally tortious conduct.

Effective Date: 03-22-1989

1517.99 Penalty.

(A)

(1) Except as provided in division (A)(2) of this section, whoever violates section 1517.021 of the Revised Code is guilty of a minor misdemeanor.

(2) Whoever violates section 1517.021 of the Revised Code with regard to a species of plant identified in a rule adopted under or included on a list prepared under section 1518.01 of the Revised Code is guilty of a misdemeanor of the third degree for a first offense. For each subsequent offense, the person is guilty of a misdemeanor of the second degree.

(B) Whoever violates division (A) of section 1517.24 or section 1517.25 of the Revised Code is guilty of a misdemeanor of the third degree.

(C) Whoever violates division (B) of section 1517.24 of the Revised Code is guilty of a misdemeanor of the second degree.

(D) Whoever violates section 1517.051 of the Revised Code is guilty of a misdemeanor of the first degree.

Effective Date: 03-18-1999

1531.131 Enforcing dumping prohibitions and nature preserve and trail rules.

A wildlife officer shall enforce section 3767.32 of the Revised Code and any other laws prohibiting the dumping of refuse into or along waters, the rules of the department of natural resources adopted under section 1517.02 of the Revised Code, and the rules of the director of natural resources adopted under Chapter 1519. of the Revised Code and shall make arrests for violation of those laws and rules. The jurisdiction of a wildlife officer is concurrent with that of the peace officers of the county, township, or municipal corporation in which the violation occurs.

Effective Date: 10-20-1994

2923.31 Corrupt activity definitions.

As used in sections 2923.31 to 2923.36 of the Revised Code:

(A) "Beneficial interest" means any of the following:

- (1) The interest of a person as a beneficiary under a trust in which the trustee holds title to personal or real property;
- (2) The interest of a person as a beneficiary under any other trust arrangement under which any other person holds title to personal or real property for the benefit of such person;
- (3) The interest of a person under any other form of express fiduciary arrangement under which any other person holds title to personal or real property for the benefit of such person.

"Beneficial interest" does not include the interest of a stockholder in a corporation or the interest of a partner in either a general or limited partnership.

(B) "Costs of investigation and prosecution" and "costs of investigation and litigation" mean all of the costs incurred by the state or a county or municipal corporation under sections 2923.31 to 2923.36 of the Revised Code in the prosecution and investigation of any criminal action or in the litigation and investigation of any civil action, and includes, but is not limited to, the costs of resources and personnel.

(C) "Enterprise" includes any individual, sole proprietorship, partnership, limited partnership, corporation, trust, union, government agency, or other legal entity, or any organization, association, or group of persons associated in fact although not a legal entity. "Enterprise" includes illicit as well as licit enterprises.

(D) "Innocent person" includes any bona fide purchaser of property that is allegedly involved in a violation of section 2923.32 of the Revised Code, including any person who establishes a valid claim to or interest in the property in accordance with division (E) of section 2981.04 of the Revised Code, and any victim of an alleged violation of that section or of any underlying offense involved in an alleged violation of that section.

(E) "Pattern of corrupt activity" means two or more incidents of corrupt activity, whether or not there has been a prior conviction, that are related to the affairs of the same enterprise, are not isolated, and are not so closely related to each other and connected in time and place that they constitute a single event.

At least one of the incidents forming the pattern shall occur on or after January 1, 1986. Unless any incident was an aggravated murder or murder, the last of the incidents forming the pattern shall occur within six years after the commission of any prior incident forming the pattern, excluding any period of imprisonment served by any person engaging in the corrupt activity.

For the purposes of the criminal penalties that may be imposed pursuant to section 2923.32 of the Revised Code, at least one of the incidents forming the pattern shall constitute a felony under the laws of this state in existence at the time it was committed or, if committed in violation of the laws of the United States or of any other state, shall constitute a felony under the law of the United States or the other state and would be a criminal offense under the law of this state if committed in this state.

(F) "Pecuniary value" means money, a negotiable instrument, a commercial interest, or anything of value, as defined in section 1.03 of the Revised Code, or any other property or service that has a value in excess of one hundred dollars.

(G) "Person" means any person, as defined in section 1.59 of the Revised Code, and any governmental officer, employee, or entity.

(H) "Personal property" means any personal property, any interest in personal property, or any right, including, but not limited to, bank accounts, debts, corporate stocks, patents, or copyrights. Personal property and any beneficial interest in personal property are deemed to be located where the trustee of the property, the personal property, or the instrument evidencing the right is located.

(I) "Corrupt activity" means engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in any of the following:

(1) Conduct defined as "racketeering activity" under the "Organized Crime Control Act of 1970," 84 Stat. 941, 18 U.S.C. 1961(1)(B), (1)(C), (1)(D), and (1)(E), as amended;

(2) Conduct constituting any of the following:

(a) A violation of section 1315.55, 1322.02, 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2905.01, 2905.02, 2905.11, 2905.22, 2905.32 as specified in division (I)(2)(g) of this section, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2913.05, 2913.06, 2921.02, 2921.03, 2921.04, 2921.11, 2921.12, 2921.32, 2921.41, 2921.42, 2921.43, 2923.12, or 2923.17; division (F)(1)(a), (b), or (c) of section 1315.53; division (A)(1) or (2) of section 1707.042; division (B), (C)(4), (D), (E), or (F) of section 1707.44; division (A)(1) or (2) of section 2923.20; division (E) or (G) of section 3772.99; division (J)(1) of section 4712.02; section 4719.02, 4719.05, or 4719.06; division (C), (D), or (E) of section 4719.07; section 4719.08; or division (A) of section 4719.09 of the Revised Code.

(b) Any violation of section 3769.11, 3769.15, 3769.16, or 3769.19 of the Revised Code as it existed prior to July 1, 1996, any violation of section 2915.02 of the Revised Code that occurs on or after July 1, 1996, and that, had it occurred prior to that date, would have been a violation of section 3769.11 of the Revised Code as it existed prior to that date, or any violation of section 2915.05 of the Revised Code that occurs on or after July 1, 1996, and that, had it occurred prior to that date, would have been a violation of section 3769.15, 3769.16, or 3769.19 of the Revised Code as it existed prior to that date.

(c) Any violation of section 2907.21, 2907.22, 2907.31, 2913.02, 2913.11, 2913.21, 2913.31, 2913.32, 2913.34, 2913.42, 2913.47, 2913.51, 2915.03, 2925.03, 2925.04, 2925.05, or 2925.37 of the Revised Code, any violation of section 2925.11 of the Revised Code that is a felony of the first, second, third, or fourth degree and that occurs on or after July 1, 1996, any violation of section 2915.02 of the Revised Code that occurred prior to July 1, 1996, any violation of section 2915.02 of the Revised Code that occurs on or after July 1, 1996, and that, had it occurred prior to that date, would not have been a violation of section 3769.11 of the Revised Code as it existed prior to that date, any violation of section 2915.06 of the Revised Code as it existed prior to July 1, 1996, or any violation of division (B) of section 2915.05 of the Revised Code as it exists on and after July 1, 1996, when the proceeds of the violation, the payments made in the violation, the amount of a claim for payment or for any other benefit that is false or deceptive and that is involved in the violation, or the value of the contraband or other property illegally possessed, sold, or purchased in the violation exceeds one thousand dollars, or any combination of violations described in division (I)(2)(c) of this section when the total proceeds of the combination of violations, payments made in the combination of violations, amount of the claims for payment or for other benefits that is false or deceptive and that is involved in the combination of violations, or value of the contraband or other property illegally possessed, sold, or purchased in the combination of violations exceeds one thousand dollars;

(d) Any violation of section 5743.112 of the Revised Code when the amount of unpaid tax exceeds one hundred dollars;

(e) Any violation or combination of violations of section 2907.32 of the Revised Code involving any material or performance containing a display of bestiality or of sexual conduct, as defined in section 2907.01 of the Revised

Code, that is explicit and depicted with clearly visible penetration of the genitals or clearly visible penetration by the penis of any orifice when the total proceeds of the violation or combination of violations, the payments made in the violation or combination of violations, or the value of the contraband or other property illegally possessed, sold, or purchased in the violation or combination of violations exceeds one thousand dollars;

(f) Any combination of violations described in division (I)(2)(c) of this section and violations of section 2907.32 of the Revised Code involving any material or performance containing a display of bestiality or of sexual conduct, as defined in section 2907.01 of the Revised Code, that is explicit and depicted with clearly visible penetration of the genitals or clearly visible penetration by the penis of any orifice when the total proceeds of the combination of violations, payments made in the combination of violations, amount of the claims for payment or for other benefits that is false or deceptive and that is involved in the combination of violations, or value of the contraband or other property illegally possessed, sold, or purchased in the combination of violations exceeds one thousand dollars;

(g) Any violation of section 2905.32 of the Revised Code to the extent the violation is not based solely on the same conduct that constitutes corrupt activity pursuant to division (I)(2)(c) of this section due to the conduct being in violation of section 2907.21 of the Revised Code.

(3) Conduct constituting a violation of any law of any state other than this state that is substantially similar to the conduct described in division (I)(2) of this section, provided the defendant was convicted of the conduct in a criminal proceeding in the other state;

(4) Animal or ecological terrorism;

(5)

(a) Conduct constituting any of the following:

(i) Organized retail theft;

(ii) Conduct that constitutes one or more violations of any law of any state other than this state, that is substantially similar to organized retail theft, and that if committed in this state would be organized retail theft, if the defendant was convicted of or pleaded guilty to the conduct in a criminal proceeding in the other state.

(b) By enacting division (I)(5)(a) of this section, it is the intent of the general assembly to add organized retail theft and the conduct described in division (I)(5)(a)(ii) of this section as conduct constituting corrupt activity. The enactment of division (I)(5)(a) of this section and the addition by division (I)(5)(a) of this section of organized retail theft and the conduct described in division (I)(5)(a)(ii) of this section as conduct constituting corrupt activity does not limit or preclude, and shall not be construed as limiting or precluding, any prosecution for a violation of section 2923.32 of the Revised Code that is based on one or more violations of section 2913.02 or 2913.51 of the Revised Code, one or more similar offenses under the laws of this state or any other state, or any combination of any of those violations or similar offenses, even though the conduct constituting the basis for those violations or offenses could be construed as also constituting organized retail theft or conduct of the type described in division (I)(5)(a)(ii) of this section.

(J) "Real property" means any real property or any interest in real property, including, but not limited to, any lease of, or mortgage upon, real property. Real property and any beneficial interest in it is deemed to be located where the real property is located.

(K) "Trustee" means any of the following:

(1) Any person acting as trustee under a trust in which the trustee holds title to personal or real property;

(2) Any person who holds title to personal or real property for which any other person has a beneficial interest;

(3) Any successor trustee.

"Trustee" does not include an assignee or trustee for an insolvent debtor or an executor, administrator, administrator with the will annexed, testamentary trustee, guardian, or committee, appointed by, under the control of, or accountable to a court.

(L) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in this state in whole or in part because the debt was incurred or contracted in violation of any federal or state law relating to the business of gambling activity or relating to the business of lending money at an usurious rate unless the creditor proves, by a preponderance of the evidence, that the usurious rate was not intentionally set and that it resulted from a good faith error by the creditor, notwithstanding the maintenance of procedures that were adopted by the creditor to avoid an error of that nature.

(M) "Animal activity" means any activity that involves the use of animals or animal parts, including, but not limited to, hunting, fishing, trapping, traveling, camping, the production, preparation, or processing of food or food products, clothing or garment manufacturing, medical research, other research, entertainment, recreation, agriculture, biotechnology, or service activity that involves the use of animals or animal parts.

(N) "Animal facility" means a vehicle, building, structure, nature preserve, or other premises in which an animal is lawfully kept, handled, housed, exhibited, bred, or offered for sale, including, but not limited to, a zoo, rodeo, circus, amusement park, hunting preserve, or premises in which a horse or dog event is held.

(O) "Animal or ecological terrorism" means the commission of any felony that involves causing or creating a substantial risk of physical harm to any property of another, the use of a deadly weapon or dangerous ordnance, or purposely, knowingly, or recklessly causing serious physical harm to property and that involves an intent to obstruct, impede, or deter any person from participating in a lawful animal activity, from mining, foresting, harvesting, gathering, or processing natural resources, or from being lawfully present in or on an animal facility or research facility.

(P) "Research facility" means a place, laboratory, institution, medical care facility, government facility, or public or private educational institution in which a scientific test, experiment, or investigation involving the use of animals or other living organisms is lawfully carried out, conducted, or attempted.

(Q) "Organized retail theft" means the theft of retail property with a retail value of one thousand dollars or more from one or more retail establishments with the intent to sell, deliver, or transfer that property to a retail property fence.

(R) "Retail property" means any tangible personal property displayed, held, stored, or offered for sale in or by a retail establishment.

(S) "Retail property fence" means a person who possesses, procures, receives, or conceals retail property that was represented to the person as being stolen or that the person knows or believes to be stolen.

(T) "Retail value" means the full retail value of the retail property. In determining whether the retail value of retail property equals or exceeds one thousand dollars, the value of all retail property stolen from the retail establishment or retail establishments by the same person or persons within any one-hundred-eighty-day period shall be aggregated.

Amended by 129th General Assembly File No.142, HB 262, §1, eff. 6/27/2012.

Amended by 129th General Assembly File No.126, HB 386, §1, eff. 6/11/2012.

Amended by 129th General Assembly File No.29, HB 86, §1, eff. 9/30/2011.

Amended by 128th General Assembly File No.58, SB 235, §1, eff. 3/24/2011.

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Related Legislative Provision: *See 129th General Assembly File No.29, HB 86, §4*