

# RECORD OF ORDINANCES

CITY OF UPPER ARLINGTON  
STATE OF OHIO

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## ORDINANCE NO. 14-2017

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**TO AMEND C.O. SECTION 171.08, MAYOR'S COURT SPECIAL PROJECT FUND, RELATIVE TO THE ADMINISTRATIVE CODE; C.O. SECTION 353.01, OPERATING A VEHICLE UNDER THE INFLUENCE; PHYSICAL CONTROL, RELATIVE TO THE TRAFFIC CODE; AND TO ENACT C.O. SECTION 355.26, TAMPERING WITH OR CIRCUMVENTING AN IGNITION INTERLOCK DEVICE; DRIVING IN VIOLATION OF AN IGNITION INTERLOCK ORDER, RELATIVE TO THE TRAFFIC CODE**

- WHEREAS,** on January 4, 2017, Ohio Governor John R. Kasich signed H.B. 388 into law, which will take effect April 4, 2017; and
- WHEREAS,** provisions of H.B. 388, also known as Annie's Law in honor of Annie Rooney, who was killed by a repeat drunk driver, encourage use of ignition interlock devices during OVI license suspensions and increase the look-back period to enhance penalties for repeat offenders; and
- WHEREAS,** these provisions need to be incorporated into the City's OVI ordinances so that effective local prosecution of drunk driving offenses is maintained; and
- WHEREAS,** the State's new provision for first-time OVI offenders to receive unlimited driving privileges with certified ignition interlock allows the court to extend a period of suspension for tampering or circumventing the interlock, but does not impose criminal liability for tampering or circumventing the interlock; and
- WHEREAS,** pursuant to home-rule authority conferred by the Ohio Constitution, the people of the City of Upper Arlington have adopted a Charter and Codified Ordinances to exercise the powers of local self-government and enforce local police-power regulations; and
- WHEREAS,** a local police-power regulation only conflicts with general law if it prescribes a rule of conduct that permits that which the state law expressly forbids, or vice versa, and
- WHEREAS,** creating a criminal offense for operating a vehicle after tampering with or circumventing the ignition interlock device during a suspension period where the offender has unlimited driving privileges does not prohibit conduct that State law expressly permits; and

**WHEREAS,** creating a criminal offense prohibiting such conduct is intended to deter first-time OVI offenders from violating the terms of their suspension, thereby enhancing public safety;

**NOW, THEREFORE BE IT ORDAINED** by the Council of the City of Upper Arlington, Ohio:

**SECTION 1.** That C.O. § 171.08, Mayor's Court Special Project Fund, is hereby amended to read as follows:

§ 171.08 MAYOR'S COURT SPECIAL PROJECT FUND.

- (A) A fee, not to exceed ten dollars (\$10.00), shall be collected on each case and is to be deposited into the mayor's court special project fund, ~~which is hereby established.~~
- (B) A fee, not to exceed two dollars and fifty cents (\$2.50), shall be collected from each first-time OVI offender who is the subject of an order issued under ORC §4510.022. This fee shall be deposited into the mayor's court special project fund. For purposes of this provision, a first-time OVI offender is a person whose driver's license or commercial driver's license or nonresident operating privilege has been suspended for being convicted of, or pleading guilty to, an OVI offense under C.O. §353.01.
- (C) Expenditures from this fund are to be used to acquire and pay for special projects of the court including, but not limited to, the acquisition of additional facilities or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, mediation or dispute resolution services, the employment of magistrates, the training and education of magistrates, and other related services.
- ~~(C)~~(D) Expenditures from said fund are subject to appropriation by city council and shall be made only for the furtherance of special projects for the operation of the court or as set out in ORC § 1901.26(B)(1).

**SECTION 2.** That C.O. § 353.01, Operating a Vehicle Under the Influence (O.V.I.); Physical Control, is hereby amended to read as follows:

§ 353.01 OPERATING A VEHICLE UNDER THE INFLUENCE (O.V.I.); PHYSICAL CONTROL.

- (A) No person who is under the influence of alcohol, a drug of abuse, or a combination of them shall operate any vehicle, streetcar, or trackless trolley within this city.
- (B) No person shall operate any vehicle within this city when:
  - (1) The person has a concentration of eight-hundredths (.08) of one percent (1%) or more but less than seventeen-hundredths (.17) of one percent (1%) by weight per unit volume of alcohol in the person's whole blood; or
  - (2) The person has a concentration of eight-hundredths (.08) of one (1) gram or more but less than seventeen-hundredths (.17) of one (1) gram by weight of alcohol per two hundred ten (210) liters of the person's breath; or

- (3) The person has a concentration of eleven-hundredths (.11) of one (1) gram or more but less than two hundred thirty-eight thousandths (.238) of one (1) gram by weight of alcohol per one hundred (100) milliliters of the person's urine; or
- (4) The person has a concentration of ninety-six-thousandths (.096) of one percent (1%) or more but less than two hundred four-thousandths (.204) of one per cent (1%) by weight per unit volume of alcohol in the person's blood serum or plasma.
- (5) The person has a concentration of seventeen-hundredths (.17) of one percent (1%) or more by weight per unit volume of alcohol in the person's whole blood; or
- (6) The person has a concentration of seventeen-hundredths (.17) of one (1) gram or more by weight of alcohol per two hundred ten (210) liters of the person's breath; or
- (7) The person has a concentration of two hundred thirty-eight thousandths (.238) of one (1) gram or more by weight of alcohol per one hundred (100) milliliters of the person's urine.
- (8) The person has a concentration of two hundred four-thousandths (.204) of one percent (1%) or more by weight per unit volume of alcohol in the person's blood serum or plasma.
- (9) Except as provided in division (O) of this section, the person has a concentration of any of the following controlled substances or metabolites of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds any of the following:
  - (a) The person has a concentration of amphetamine in the person's urine of at least five hundred (500) nanograms of amphetamine per milliliter of the person's urine or has a concentration of amphetamine in the person's whole blood or blood serum or plasma of at least one hundred (100) nanograms of amphetamine per milliliter of the person's whole blood or blood serum or plasma.
  - (b) The person has a concentration of cocaine in the person's urine of at least one hundred fifty (150) nanograms of cocaine per milliliter of the person's urine or has a concentration of cocaine in the person's whole blood or blood serum or plasma of at least fifty (50) nanograms of cocaine per milliliter of the person's whole blood or blood serum or plasma.
  - (c) The person has a concentration of cocaine metabolite in the person's urine of at least one hundred fifty (150) nanograms of cocaine metabolite per milliliter of the person's urine or has a concentration of cocaine metabolite in the person's whole blood or blood serum or plasma of at least fifty (50) nanograms of cocaine metabolite per milliliter of the person's whole blood or blood serum or plasma.
  - (d) The person has a concentration of heroin in the person's urine of at least two thousand (2,000) nanograms of heroin per milliliter of the person's urine or has a concentration of heroin in the person's whole blood or blood serum or plasma of at least fifty (50) nanograms of heroin per milliliter of the person's whole blood or blood serum or plasma.
  - (e) The person has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's urine of at least ten (10) nanograms of heroin

metabolite (6-monoacetyl morphine) per milliliter of the person's urine or has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's whole blood or blood serum or plasma of at least ten (10) nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's whole blood or blood serum or plasma.

- (f) The person has a concentration of L.S.D. in the person's urine of at least twenty-five (25) nanograms of L.S.D. per milliliter of the person's urine or a concentration of L.S.D. in the person's whole blood or blood serum or plasma of at least ten (10) nanograms of L.S.D. per milliliter of the person's whole blood or blood serum or plasma.
- (g) The person has a concentration of marijuana in the person's urine of at least ten (10) nanograms of marijuana per milliliter of the person's urine or has a concentration of marijuana in the person's whole blood or blood serum or plasma of at least two (2) nanograms of marijuana per milliliter of the person's whole blood or blood serum or plasma.
- (h) Either of the following applies:
  - (i) The person is under the influence of alcohol, a drug of abuse, or a combination of them, and, as measured by gas chromatography mass spectrometry, the person has a concentration of marijuana metabolite in the person's urine of at least fifteen (15) nanograms of marijuana metabolite per milliliter of the person's urine or has a concentration of marijuana metabolite in the person's whole blood or blood serum or plasma of at least five (5) nanograms of marijuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
  - (ii) As measured by gas chromatography mass spectrometry, the person has a concentration of marijuana metabolite in the person's urine of at least thirty-five (35) nanograms of marijuana metabolite per milliliter of the person's urine or has a concentration of marijuana metabolite in the person's whole blood or blood serum or plasma of at least fifty (50) nanograms of marijuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
- (i) The person has a concentration of methamphetamine in the person's urine of at least five hundred (500) nanograms of methamphetamine per milliliter of the person's urine or has a concentration of methamphetamine in the person's whole blood or blood serum or plasma of at least one hundred (100) nanograms of methamphetamine per milliliter of the person's whole blood or blood serum or plasma.
- (j) The person has a concentration of phencyclidine in the person's urine of at least twenty-five (25) nanograms of phencyclidine per milliliter of the person's urine or has a concentration of phencyclidine in the person's whole blood or blood serum or plasma of at least ten (10) nanograms of phencyclidine per milliliter of the person's whole blood or blood serum or plasma.

- (C) No person shall be in physical control of a vehicle, streetcar, or trackless trolley if, at the time of the physical control, any of the following apply:

- (1) The person is under the influence of alcohol, a drug of abuse, or a combination of them.
  - (2) The person's whole blood, breath, urine, or blood serum or plasma contains at least the concentration of alcohol specified in division (A)(1)(b), (c), (d), (e), (f), (g), (h), or (i) of ORC § 4511.19 or C.O. § 353.01(B)(1), (2), (3), (4), (5), (6), (7), or (8).
  - (3) Except as provided in division (K)(5)(c) of this section, the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the concentration specified in ORC § 4511.19(A)(1)(j) or C.O. § 353.01(B)(9).
- (D) No person under twenty-one (21) years of age shall operate any vehicle, streetcar or trackless trolley within this city, if any of the following apply:
- (1) The person has a concentration of at least two-hundredths (.02) of one percent (1%), but less than eight-hundredths (.08) of one percent (1%) by weight per unit volume of alcohol in the person's whole blood; or
  - (2) The person has a concentration of at least two-hundredths (.02) of one (1) gram but less than eight-hundredths (.08) of one (1) gram by weight of alcohol per two hundred ten (210) liters of the person's breath; or
  - (3) The person has a concentration of at least twenty-eight one thousandths (.028) of one (1) gram but less than eleven hundredths (.11) of one (1) gram by weight of alcohol per one hundred (100) milliliters of the person's urine; or
  - (4) The person has a concentration of at least three-hundredths (.03) of one percent (1%), but less than ninety-six-thousandths (.096) of one percent (1%) by weight per unit volume of alcohol in the person's blood serum or plasma.
- (E) No person who, within twenty (20) years of the conduct described in division (E)(1) of this section, previously has been convicted of or pleaded guilty to a violation of this division, division (A), (B), or (D) of this section, ORC § 4511.19(A)(1) or (B), or any other equivalent offense shall do both of the following:
- (1) Operate any vehicle, streetcar, or trackless trolley within this city while under the influence of alcohol, a drug of abuse, or a combination of them;
  - (2) Subsequent to being arrested for operating the vehicle, streetcar, or trackless trolley as described in division (E)(1) of this section, or ORC § 4511.19(A)(2)(a), being asked by a law enforcement officer to submit to a chemical test or tests under ORC § 4511.191, and being advised by the officer in accordance with ORC § 4511.192 of the consequences of the person's refusal or submission to the test or tests, refuse to submit to the test or tests.
- (F) (1) In any prosecution for a violation of division (A), (B), (C), or (D) of this section or for an equivalent offense, the court may admit evidence on the concentration of alcohol, drugs of abuse, controlled substances, metabolites of a controlled substance, or a combination of them in the defendant's whole blood, breath, urine, blood serum or plasma, or other bodily substance at the time of the alleged violation as shown by chemical analysis of the substance withdrawn within three (3) hours of the time of the alleged violation. The three-hour time limit specified in this division regarding the admission of evidence does not extend or affect the

two (2) hour time limit specified in ORC 4511.192(A) as the maximum period of time during which a person may consent to a chemical test or tests as described in that section.

When a person submits to a blood test at the request of a law enforcement officer under ORC § 4511.191 ~~[4511.19.1]~~, only a physician, a registered nurse, or a qualified technician, chemist, or phlebotomist shall withdraw blood for the purpose of determining the alcohol, drug, controlled substance, metabolite of a controlled substance, or combination content of the whole blood, blood serum, or blood plasma. This limitation does not apply to the taking of breath or urine specimens. A person authorized to withdraw blood under this division may refuse to withdraw blood under this division, if in that person's opinion, the physical welfare of the person would be endangered by the withdrawing of the blood.

The bodily substance withdrawn shall be analyzed in accordance with methods approved by the Ohio Director of Health, by an individual possessing a valid permit issued by the Director pursuant to ORC § 3701.143 ~~[3701.14.3]~~.

- (2) In any prosecution for a violation of C.O. § 353.01(A), (B), or (C) or for an equivalent offense, if there was at the time the bodily substance was withdrawn a concentration of less than the applicable concentration of alcohol specified in divisions (B)(1), (2), (3) and (4) of this section or less than the applicable concentration of a listed controlled substance or a listed metabolite of a controlled substance specified for a violation of division (B)(9) of this section, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This division does not limit or affect a criminal prosecution for a violation of division (D) of this section or for an equivalent offense that is substantially equivalent to that division.
- (3) Upon the request of the person who was tested, the results of the chemical test shall be made available to the person, or the person's attorney, immediately upon the completion of the chemical test analysis.

The person tested may have a physician, a registered nurse, or a qualified technician, chemist, or phlebotomist of the person's own choosing administer a chemical test or tests, at the person's expense, in addition to any administered at the request of a law enforcement officer. The form to be read to the person to be tested, as required under ORC § 4511.192 ~~[4511.19.2]~~, shall state that the person may have an independent test performed at the person's expense. The failure or inability to obtain an additional chemical test by a person shall not preclude the admission of evidence relating to the chemical test or tests taken at the request of a law enforcement officer.

- (4)
  - (a) As used in divisions (F)(4)(b) and (c) of this section, "National Highway Traffic Safety Administration" means the National Highway Traffic Safety Administration established as an administration of the United States Department of Transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105.
  - (b) In any prosecution for a violation of division (A), (B), (C), (D) or (E) of this section, of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or of a municipal ordinance relating to operating a vehicle with

prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine, or being in physical control of a motor vehicle, if a law enforcement officer has administered a field sobriety test to the operator of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that were set by the National Highway Traffic Safety Administration, all of the following apply:

- (i) The officer may testify concerning the results of the field sobriety test so administered.
  - (ii) The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the prosecution.
  - (iii) If testimony is presented or evidence is introduced under division (F)(4)(b)(i) or (ii) of this section and if the testimony or evidence is admissible under the rules of evidence, the court shall admit the testimony or evidence and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.
- (c) Division (F)(4)(b) of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by probable cause or its determination of any other matter in a prosecution of a type described in that division, from considering evidence or testimony that is not otherwise disallowed by division (F)(4)(b) of this section.

The foregoing provisions of this section do not limit the introduction of any other competent evidence bearing upon the question of whether or not the defendant was under the influence of alcohol, drug of abuse or combined influence of alcohol and drug of abuse.

- (G) As used in this section drug of abuse has the same meaning as that term defined in ORC § 4506.01.
- (H) In any proceeding arising out of one (1) incident, a person may be charged with a violation of C.O. § 353.01(A), § 353.01(B), § 353.01(D) or § 353.01(E) of this section, but the person may not be convicted of more than one (1) violation of these divisions.
- (1) Subject to division (I)(3) of this section, in any prosecution for a violation of division (B)(1), (2), (3), (4), (5), (6), (7), (8), or (9), (C), or (D) (1), (2), (3), or (4) of this section or for an equivalent offense that is substantially equivalent to any of those divisions, a laboratory report from any laboratory personnel issued a permit by the Ohio Department of Health authorizing an analysis as described in this division that contains an analysis of the whole blood, blood serum or plasma, breath, urine, or other bodily substance test and that contains all of the information specified in this division shall be admitted as prima-facie evidence of the information and statements that the report contains. The laboratory report shall contain all of the following:

- (a) The signature, under oath, of any person who performed the analysis;
  - (b) Any findings as to the identity and quantity of alcohol, a drug of abuse, a controlled substance, a metabolite of a controlled substance, or a combination of them that was found;
  - (c) A copy of a notarized statement by the laboratory director or a designee of the director that contains the name of each certified analyst or test performer involved with the report, the analyst's or test performer's employment relationship with the laboratory that issued the report, and a notation that performing an analysis of the type involved is part of the analyst's or test performer's regular duties;
  - (d) An outline of the analyst's or test performer's education, training, and experience in performing the type of analysis involved and a certification that the laboratory satisfies appropriate quality control standards in general and, in this particular analysis, under rules of the department of health.
- (2) Notwithstanding any other provision of law regarding the admission of evidence, a report of the type described in division (I)(1) of this section is not admissible against the defendant to whom it pertains in any proceeding, other than a preliminary hearing or a grand jury proceeding, unless the prosecutor has served a copy of the report on the defendant's attorney or, if the defendant has no attorney, on the defendant.
- (3) A report of the type described in division (I)(1) of this section shall not be prima-facie evidence of the contents, identity, or amount of any substance if, within seven (7) days after the defendant to whom the report pertains or the defendant's attorney receives a copy of the report, the defendant or the defendant's attorney demands the testimony of the person who signed the report. The judge, magistrate, or mayor in the case may extend the seven-day time limit in the interest of justice.
- (J) Except as otherwise provided in this division, any physician, registered nurse, or qualified technician, chemist, or phlebotomist who withdraws blood from a person pursuant to this section, ORC § 4511.191 or 4511.192, and any hospital, first-aid station, or clinic at which blood is withdrawn from a person pursuant to this section, ORC § 4511.191 or 4511.192, is immune from criminal liability and civil liability based upon a claim of assault and battery or any other claim that is not a claim of malpractice, for any act performed in withdrawing blood from the person. The immunity provided in this division is not available to a person who withdraws blood if the person engages in willful or wanton misconduct.
- (K)
  - (1) Whoever violates any provision of divisions (A) or (B)(1) to (8) of this section is guilty of operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them. Whoever violates division (B)(9) of this section is guilty of operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance. The court shall sentence the offender for either offense under ORC ch. 2929, except as otherwise authorized or required by divisions (K)(1)(a) to (d) of this section:
    - (a) Except as otherwise provided in division (K)(1)(b), (c), (d)(i), (ii) of this section, the offender is guilty of a misdemeanor of the first degree, and the court shall sentence the offender to all the following:



- (i) If the sentence is being imposed for a violation of division (A), (B) (1), (2), (3), (4), or (9) of this section, a mandatory jail term of three (3) consecutive days. As used in this division, three (3) consecutive days means seventy-two (72) consecutive hours. The court may sentence an offender to both an intervention program and a jail term. The court may impose a jail term in addition to the three-day mandatory jail term or intervention program, however, in no case shall the cumulative jail term imposed for the offense exceed one hundred eighty (180) days.

The court may suspend the execution of the three-day jail term under this division if the court, in lieu of that suspended term, places the offender on probation and requires the offender to attend, for three consecutive days, a drivers' intervention program certified under ORC § 3793.10. The court also may suspend the execution of any part of the three (3) day jail term under this division if it places the offender on probation for part of the three (3) days, requires the offender to attend for the suspended part of the term a drivers' intervention program so certified, and sentences the offender to a jail term equal to the remainder of the three (3) consecutive days that the offender does not spend attending the program. The court may require the offender, as a condition of probation and in addition to the required attendance at a drivers' intervention program, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to ORC ch. 3793 by the director of alcohol and drug addiction services that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose on the offender any other conditions of probation that it considers necessary.

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

- (ii) If the sentence is being imposed for a violation of division (B) (5), (6), (7), or (8) or division (E)(1), (2) of this section, except as otherwise provided in this division, a mandatory jail term of at least three (3) consecutive days and a requirement that the offender attend, for three (3) consecutive days, a drivers' intervention program that is certified pursuant to ORC § 3793.10. As used in this division, three (3) consecutive days means seventy-two (72) consecutive hours. If the court determines that the offender is not conducive to treatment in a drivers' intervention program, if the offender refuses to attend a drivers' intervention program, or if the

jail at which the offender is to serve the jail term imposed can provide a drivers' intervention program, the court shall sentence the offender to a mandatory jail term of at least six (6) consecutive days.

The court may require the offender, as a condition of probation, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to ORC ch. 3793 by the director of alcohol and drug addiction services, in addition to the required attendance at 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 probation on the offender that it considers necessary.

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

- (iii) If the sentence is being imposed for a violation of (A), (B)(1), (2), (3), (4) or (9) of this section, a fine of not less than five hundred dollars (\$500.00) and not more than one thousand seventy five dollars (\$1,075.00). If the sentence is being imposed for a violation of (B) (5), (6), (7), (8) or (E) (1) or (2) of this section, a fine of not less than five hundred fifty dollars (\$550.00) and not more than one thousand seventy five dollars (\$1,075.00).
  - (iv) In all cases, a ~~class five (5) license~~ suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in ~~C.O. § 315.99(F)(5) or division (A)(5) of ORC § 4510.02~~ for a definite period of one to three years. The court may grant limited driving privileges relative to the suspension under ORC §§ 4510.021 ~~[4510.02-1]~~ and 4510.13. The court may grant unlimited driving privileges with an ignition interlock device relative to the suspension and may reduce the period of suspension as authorized under ORC § 4510.022.
- (b) Except as otherwise provided in division (K)(1)(d)(i), (ii) of this section, an offender who, within ~~six (6)~~ ten (10) years of the offense, previously has been convicted of or pleaded guilty to one (1) violation of division (A), (B), or (D) of this section or one (1) other equivalent offense is guilty of a misdemeanor of the first degree. The court shall sentence the offender to all of the following:
- (i) If the sentence is being imposed for a violation of division (A), (B)(1), (2), (3), (4), or (9) of this section, a mandatory jail term of ten (10) consecutive days. The court shall impose the ten-day mandatory jail term under this division, unless, subject to (K)(3) of

this section, it instead imposes a sentence under that division consisting of both a jail term and a term of electronically monitored house arrest or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, a term of electronic monitoring or continuous alcohol monitoring without house arrest, or a term of house arrest with electronic monitoring or continuous alcohol monitoring. The court may impose a jail term in addition to the ten-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six (6) months. In addition, the court may authorize that the defendant be granted work release from imprisonment during the ten (10) consecutive days of imprisonment that the court is required by this section to impose.

In addition to the jail term or the term of electronically monitored house arrest or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, a term of electronic monitoring or continuous alcohol monitoring without house arrest, or a term of house arrest with electronic monitoring or continuous alcohol monitoring and jail term, the court shall require the offender to be assessed by an alcohol and drug treatment program that is authorized by section 3793.02 of the Ohio Revised Code, subject to division (I) of this section, and shall order the offender to follow the treatment recommendations of the program. The purpose of the assessment is to determine the degree of the offender's alcohol usage and to determine whether or not treatment is warranted. Upon the request of the court, the program shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use. (Ordinance No. 88-2008)

- (ii) If the sentence is being imposed for a violation of division (B)(5), (6), (7), or (8) or division (E)(1), (2) of this section, except as otherwise provided in this division, a mandatory jail term of twenty (20) consecutive days. The court shall impose the twenty-day mandatory jail term under this division unless, subject to division (K)(3) of this section, it instead imposes a sentence under that division consisting of both a jail term and a term of electronically monitored house arrest or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, a term of electronic monitoring or continuous alcohol monitoring without house arrest, or a term of house arrest with electronic monitoring or continuous alcohol monitoring. The court may impose a jail term in addition to the twenty-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six (6) months. In addition, the court may authorize that the offender be granted work release during the twenty (20) consecutive days.

In addition to the jail term or the term of electronically monitored house arrest and jail term, or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, a term of electronic monitoring or continuous alcohol monitoring without house arrest, or a term of house arrest with electronic

monitoring or continuous alcohol monitoring, the court shall require the offender to be assessed by an alcohol and drug treatment program that is authorized by section 3793.02 of the Ohio Revised Code, subject to division (I) of this section, and shall order the offender to follow the treatment recommendations of the program. The purpose of the assessment is to determine the degree of the offender's alcohol usage and to determine whether or not treatment is warranted. Upon the request of the court, the program shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

- (iii) In all cases, notwithstanding the fines set forth in ORC ch. 2929, if the sentence is being imposed for a violation of (A), (B)(1), (2), (3), (4) or (9) of this section, a fine of not less than seven hundred twenty-five dollars (\$725.00) and not more than one thousand six hundred twenty-five dollars (\$1,625.00). If the sentence is being imposed for a violation of (B) (5), (6), (7), (8) or (E) (1) or (2) of this section, a fine of not less than seven hundred fifty dollars (\$750.00) and not more than one thousand six hundred twenty-five dollars (\$1,625.00).
  - (iv) In all cases, a ~~class four (4) license~~ suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege ~~from the range specified in C.O. § 315.99(F)(4) or division (A)(4) of ORC § 4510.02 for a definite period of one to seven years.~~ The court may grant limited driving privileges relative to the suspension under ORC §§ 4510.021 ~~[4510.02-1]~~ and 4510.13.
  - (v) In all cases, if the vehicle is registered in the offender's name, immobilization of the vehicle involved in the offense for ninety (90) days in accordance with ORC § 4503.233 ~~[4503.23-3]~~ and impoundment of the license plates of that vehicle for ninety (90) days unless a vehicle immobilization waiver has been filed as required in ORC § 4503.235.
- (c) Except as otherwise provided in division (K)(1)(d)(i), (ii) of this section, an offender who, within ~~six (6)~~ ten (10) years of the offense, previously has been convicted of or pleaded guilty to two (2) violations of division (A), (B), or (D) of this section or other equivalent offenses is guilty of a misdemeanor of the first degree. The court shall sentence the offender to all of the following:
- (i) If the sentence is being imposed for a violation of division (A), (B)(1), (2), (3), (4), or (9) of this section, a mandatory jail term of thirty (30) consecutive days. The court shall impose the thirty-day mandatory jail term under this division unless, subject to division (K)(3) of this section, it instead imposes a sentence under that division consisting of both a jail term and a term of electronically monitored house arrest or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, a term of electronic monitoring or continuous alcohol monitoring without

house arrest, or a term of house arrest with electronic monitoring or continuous alcohol monitoring. The court may impose a jail term in addition to the thirty-day mandatory jail term. Notwithstanding the terms of imprisonment set forth in ORC ch. 2929, the additional jail term shall not exceed one (1) year, and the cumulative jail term imposed for the offense shall not exceed one (1) year. In addition, the court may authorize that the offender be granted work release during the thirty (30) consecutive days of imprisonment that the court is required by this section to impose.

- (ii) If the sentence is being imposed for a violation of division (B)(5), (6), (7), or (8) or division (E)(1), (2) of this section, a mandatory jail term of sixty (60) consecutive days. The court shall impose the sixty-day mandatory jail term under this division unless, subject to division (K)(3) of this section, it instead imposes a sentence under that division consisting of both a jail term and a term of electronically monitored house arrest or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, a term of electronic monitoring or continuous alcohol monitoring without house arrest, or a term of house arrest with electronic monitoring or continuous alcohol monitoring. The court may impose a jail term in addition to the sixty-day mandatory jail term. Notwithstanding the terms of imprisonment set forth in ORC ch. 2929, the additional jail term shall not exceed one (1) year, and the cumulative jail term imposed for the offense shall not exceed one (1) year. In addition, the court may grant the offender work release for the sixty (60) consecutive days.
- (iii) In all cases, notwithstanding the fines set forth in ORC ch. 2929, if the sentence is being imposed for a violation of (A), (B)(1), (2), (3), (4) or (9) of this section, a fine of not less than one thousand fifty dollars (\$1,050.00) and not more than two thousand seven hundred fifty dollars (\$2,750.00). If the sentence is being imposed for a violation of (B)(5), (6), (7) (8) or (E)(1) or (2) of this section, a fine of not less than one thousand seventy five dollars (\$1,075.00) and not more than two thousand seven hundred fifty dollars (\$2,750.00);
- (iv) In all cases, a ~~class three (3) license~~ suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege ~~from the range specified in C.O. § 315.99(F)(3) or in division (A)(3) of section 4510.02 of the Ohio Revised Code for a definite period of two to twelve years.~~ The court may grant limited driving privileges relative to the suspension under ORC §§ 4510.021 ~~[4510.02.1]~~ 4510.13 and 4511.198.
- (v) In all cases, if the vehicle is registered in the offender's name, criminal forfeiture of the vehicle involved in the offense in accordance with ORC § 4503.234 ~~[4503.23.4]~~. ORC § 4511.19(G)(6) applies regarding any vehicle that is subject to any order of criminal forfeiture under this division.

- (vi) In all cases, the court shall order the offender to participate in an alcohol and drug addiction program authorized by ORC § 3793.02, subject to division (I) of this section, and shall order the offender to follow the treatment recommendations of the program. The operator of the program shall determine and assess the degree of the offender's alcohol dependency and shall make recommendations for treatment. Upon the request of the court, the program shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.
- (d) (i) If within ~~six (6)~~ ten (10) years of the offense, the offender previously has been convicted of or pleaded guilty to three (3) or four (4) violations of divisions (A), (B) or (D), or other equivalent offenses or an offender who, within twenty (20) years of the offense, previously has been convicted of or pleaded guilty to five (5) or more violations of that nature, is guilty of a felony and is to be prosecuted under the appropriate state law.
- (ii) If the offender previously has been convicted of or pleaded guilty to a violation of division (A) of section 4511.19 of the Ohio Revised Code or an equivalent offense under circumstances in which the violation was a felony, regardless of when the prior violation and the prior conviction or guilty plea occurred, the offender is guilty of a felony of the third degree and is to be prosecuted under the appropriate state law.
- (2) An offender who is convicted of or pleads guilty to a violation of division (A), (B), (D) or (E) of this section and who subsequently seeks reinstatement of the driver's or occupational driver's license or permit or nonresident operating privilege suspended under this section as a result of the conviction or guilty plea shall pay a reinstatement fee as provided in ORC 4511.191 [4511.19.1] division (F)(2).
- (3) If an offender is sentenced to a jail term under division (K)(1)(b)(i) or (ii) or (K)(1)(c)(i) or (ii) of this section and if, within sixty (60) days of sentencing of the offender, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the term, the offender will not be able to begin serving that term within the sixty-day period following the date of sentencing, the court may impose an alternative sentence under this division that includes a term of electronically monitored house arrest or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, a term of electronic monitoring or continuous alcohol monitoring without house arrest, or a term of house arrest with electronic monitoring or continuous alcohol monitoring, as defined in ORC § 2929.23.

As an alternative to a mandatory jail term of ten (10) consecutive days required by division (K)(1)(b)(i) of this section, the court, under this division, may sentence the offender to five (5) consecutive days in jail and not less than eighteen (18) consecutive days of electronically monitored house arrest or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, a term of electronic monitoring or continuous alcohol monitoring without house arrest, or a term of house arrest with electronic monitoring or continuous alcohol

monitoring. The cumulative total of the five (5) consecutive days in jail and the period of electronically monitored house arrest or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, a term of electronic monitoring or continuous alcohol monitoring without house arrest, or a term of house arrest with electronic monitoring or continuous alcohol monitoring shall not exceed one hundred eighty (180) days. The five (5) consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to the mandatory jail term of twenty (20) consecutive days required by division (K)(1)(b)(ii) of this section, the court, under this division, may sentence the offender to ten (10) consecutive days in jail and not less than thirty-six (36) consecutive days of electronically monitored house arrest or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, a term of electronic monitoring or continuous alcohol monitoring without house arrest, or a term of house arrest with electronic monitoring or continuous alcohol monitoring. The cumulative total of the ten (10) consecutive days in jail and the period of electronically monitored house arrest or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, a term of electronic monitoring or continuous alcohol monitoring without house arrest, or a term of house arrest with electronic monitoring or continuous alcohol monitoring shall not exceed one hundred eighty (180) days. The ten (10) consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to a mandatory jail term of thirty (30) consecutive days required by division (K)(1)(c)(i) of this section, the court, under this division, may sentence the offender to fifteen (15) consecutive days in jail and not less than fifty-five (55) consecutive days of electronically monitored house arrest or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, a term of electronic monitoring or continuous alcohol monitoring without house arrest, or a term of house arrest with electronic monitoring or continuous alcohol monitoring. The cumulative total of the fifteen (15) consecutive days in jail and the period of electronically monitored house arrest or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, a term of electronic monitoring or continuous alcohol monitoring without house arrest, or a term of house arrest with electronic monitoring or continuous alcohol monitoring shall not exceed one (1) year. The fifteen (15) consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to the mandatory jail term of sixty (60) consecutive days required by division (K)(1)(c)(ii) of this section, the court, under this division, may sentence the offender to thirty (30) consecutive days in jail and not less than one hundred ten (110) consecutive days of electronically monitored house arrest or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, a term of electronic monitoring or continuous alcohol monitoring without house arrest, or a term of house arrest with electronic monitoring or continuous alcohol monitoring. The cumulative total of the thirty (30) consecutive days in jail and the period of electronically monitored house arrest or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, a term of electronic monitoring or continuous

alcohol monitoring without house arrest, or a term of house arrest with electronic monitoring or continuous alcohol monitoring shall not exceed one (1) year. The thirty (30) consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

- (4) If the offender has been convicted of or pleaded guilty to a violation of (B)(5), (6), (7) or (8) or (E)(1), (2) of this section or any equivalent offense, in addition to any other penalty or sanction authorized by this code or the Ohio Revised Code, the offender's driver's or occupational driver's license or permit or nonresident operating privilege is suspended under division (K) of this section and if ORC § 4510.13 permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance with that section. If division (A)(7) of that section requires that the court impose as a condition of the privileges that the offender must display on the vehicle that is driven subject to the privileges restricted license plates that are issued under ORC § 4503.231 ~~[4510.23-1]~~, except as provided in division (B) of that section, the court shall impose that condition as one of the conditions of the limited driving privileges granted to the offender, except as provided in ORC § 4503.231(B).
- (5)
  - (a) Whoever violates C.O. § 353.01(C) is guilty of having physical control of a vehicle while under the influence, a misdemeanor of the first degree. In addition to other sanctions imposed, the court may impose on the offender a class seven (7) suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in C.O. § 315.99(F)(7) or division (A)(7) of ORC § 4510.02.
  - (b) The court shall also impose a fine of not less than three hundred dollars (\$300.00) and not more than one thousand dollars (\$1,000.00).
  - (c) Division (C)(3) of this section does not apply to a person who is in physical control of a vehicle, streetcar, or trackless trolley while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in division (A)(1)(j) of ORC § 4511.19 or C.O. § 353.01(B)(9), if both of the following apply:
    - (i) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
    - (ii) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.
  - (d) "Physical Control" has the same meaning as in ORC § 4511.194.
- (6) In all cases in which an offender is sentenced under division (K) of this section, the offender shall provide the court with proof of financial responsibility as defined in ORC § 4509.01. If the offender fails to provide that proof of financial responsibility, the court, in addition to any other penalties provided by law, may order restitution pursuant to ORC § 2929.18 or 2929.28 in an amount not exceeding five thousand dollars (\$5,000.00) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's



operation of the vehicle before, during, or after committing the offense for which the offender is sentenced under division (K) of this section.

(L) Whoever violates C.O. § 353.01(D) of this section is guilty of operating a vehicle after underage alcohol consumption and shall be punished as follows:

- (1) (a) Except as otherwise provided in division (L)(2) of this section, the offender is guilty of a misdemeanor of the third degree. In addition to any other sanction imposed for the offense, the court shall impose a class six (6) suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in C.O. § 315.99(F)(6) or division (A)(6) of ORC § 4510.02. The court may grant limited driving privileges relative to the suspension under ORC §§4510.021 and 4510.13. The court may grant unlimited driving privileges with an ignition interlock device relative to the suspension and may reduce the period of suspension as authorized under ORC §4510.022. If the court grants unlimited driving privileges under ORC §4510.022, the court shall suspend any jail term imposed under division (L)(1) of this section as required by ORC §4510.022.
  - (b) The court shall order the offender to attend and complete a drug and/or alcohol assessment by a certified chemical dependency counselor and/or any other alcohol and/or drug program recommended by the court.
- (2) (a) If, within one (1) year of the offense, the offender previously has been convicted of or pleaded guilty to one (1) or more violations of division (A), (B), or (D) of this section or other equivalent offenses, the offender is guilty of a misdemeanor of the second degree. In addition, to any other sanction imposed for the offense, the court shall impose a class four (4) suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in C.O. § 315.99(F)(4) or division (A)(4) of section 4510.02 of the Ohio Revised Code. The court may grant limited driving privileges relative to the suspension under ORC §§ 4510.021 and 4510.13.
  - (b) The court shall order the offender to attend and complete any treatment or education program through an alcohol and drug addiction service as authorized by ORC § 3793.02.
- (3) If the offender also is convicted of or also pleads guilty to a specification of the type described in ORC § 2941.1416 and if the court imposes a jail term for the violation of division (D) of this section, the court shall impose upon the offender an additional definite jail term pursuant to division (E) of ORC § 2929.24.
- (4) The offender shall provide the court with proof of financial responsibility as defined in ORC § 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to ORC § 2929.28 in an amount not exceeding five thousand dollars (\$5,000.00) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the violation of division (D) of this section.

- (M) (1) No court shall sentence an offender to an alcohol treatment program under this section unless the treatment program complies with the minimum standards for alcohol treatment programs adopted under ORC ch. 3793 by the director of alcohol and drug addiction services.
- (2) An offender who stays in a drivers' intervention program or in an alcohol treatment program under an order issued under this section shall pay the cost of the stay in the program. However, if the court determines that an offender who stays in an alcohol treatment program under an order issued under this section is unable to pay the cost of the stay in the program, the court may order that the cost be paid from the court's indigent drivers' alcohol treatment fund.
- (N) If a person whose driver's or commercial driver's license or permit or nonresident operating privilege is suspended under this section files an appeal regarding any aspect of the person's trial or sentence, the appeal itself does not stay the operation of the suspension.
- (O) Division (B)(9) of this section does not apply to a person who operates a vehicle, streetcar, or trackless trolley while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in that division, if both of the following apply:
- (1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
- (2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.
- (P) All terms defined in ORC § 4510.01 apply to this section. If the meaning of a term defined in ORC § 4510.01 conflicts with the meaning of the same term as defined in ORC § 4501.01 or 4511.01, the term as defined in ORC § 4510.01 applies to this section.
- (Q) As used in C.O. § 353.01, equivalent offense means any of the following:
- (1) A violation of ORC § 4511.19(A) or (B); or C.O. § 353.01(A), (B) or (D);
- (2) A violation of a municipal OVI ordinance;
- (3) A violation of ORC § 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section;
- (4) A violation of ORC § 2903.06(A)(1) or 2903.08 or a municipal ordinance that is substantially equivalent to either of those divisions;
- (5) A violation of ORC § 2903.06(A)(2), (3), or (4), ORC § 2903.08(A)(2), or former ORC § 2903.07, or a municipal ordinance that is substantially equivalent to any of those divisions or that former section, in a case in which a judge or jury as the trier of fact found that the offender was under the influence of alcohol, a drug of abuse, or a combination of them;
- (6) A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to ORC § 4511.19(A) or (B), or C.O. § 353.01(A), (B), or (D);
- (7) A violation of a former law of this state that was substantially equivalent to ORC § 4511.19(A) or (B), or C.O. § 353.01(A), (B), or (D).

- (R) Municipal OVI Ordinance and Municipal OVI Offense mean any municipal ordinance prohibiting a person from operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating a vehicle with a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine.
- (S) Community control sanction, jail, mandatory prison term, mandatory term of local incarceration, sanction, and prison term, house arrest, and continuous alcohol monitoring have the same meanings as in ORC § 2929.01.
- (T) "Controlled substance" and "marijuana" have the same meaning as in ORC § 3719.01.
- (U) "Drug of abuse" has the same meaning as in ORC §§ 3719.011 and 4506.01.
- (V) "Drug abuse offense," "cocaine," and "L.S.D.," have the same meanings as in ORC § 2925.01.

**SECTION 3.**

That C.O. Chapter 355, Licensing, is hereby amended by adding C.O. § 355.26, Tampering with or Circumventing Ignition Interlock Device; Driving in Violation of Ignition Interlock Order, to read as follows:

**355.26 TAMPERING WITH OR CIRCUMVENTING AN IGNITION INTERLOCK DEVICE;  
DRIVING IN VIOLATION OF AN IGNITION INTERLOCK ORDER**

- (A) No person who is subject to an order under ORC § 4510.022 granting unlimited driving privileges with a certified ignition interlock device shall tamper with or circumvent the device, or cause another to tamper with or circumvent the device during the period of suspension imposed by the court during the period of suspension imposed by the court as a result of the person being convicted of or pleading guilty to an OVI offense.
- (B) No person who is subject to an order under ORC § 4510.022 granting unlimited driving privileges with a certified ignition interlock device shall operate a vehicle that is not equipped with a certified ignition interlock device during the period of suspension imposed by the court as a result of the person being convicted of or pleading guilty to an OVI offense.
- (C) Whoever violates division (A) of this section is guilty of tampering with or circumventing an ignition interlock device. A person who violates division (B) of this section is guilty of driving in violation of an ignition interlock order. The court shall sentence the offender under ORC ch. 2929, subject to the differences authorized or required by this section.
  - (1) A violation of this Section is a misdemeanor of the first degree. The court shall sentence the offender to all of the following:
    - (a) A mandatory jail term of three (3) consecutive days. The three-day term shall be imposed, unless the court instead imposes a sentence of not less than thirty (30) consecutive days of electronically monitored house arrest. A period of electronically monitored house arrest imposed under this division shall not exceed six (6) months. If the court imposes a mandatory three-day jail term under this division, the court may impose a jail term in addition to that term, provided that in no case shall the cumulative jail term imposed for the offense exceed six (6) months. Except as specifically authorized under this section, the mandatory jail term cannot

be suspended, reduced, or otherwise modified pursuant to ORC § 2929.51, 2951.02, or any other provision of the Ohio Revised Code.

(b) A fine of not less than three hundred dollars (\$300.00) and not more than one thousand dollars (\$1,000.00).

(D) Prosecution and conviction under this section shall not affect the court's ability to issue any order authorized or required under division (E) of ORC § 4510.022.

(E) The offender shall provide the court with proof of financial responsibility as defined in ORC § 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to ORC § 2929.28 in an amount not exceeding five thousand dollars (\$5,000.00) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing an offense under this section.

(F) As used in this section:

(1) "Electronically monitored house arrest" has the same meaning as in ORC § 2929.23.

(2) "Jail" has the same meaning as in ORC § 2929.01.

**SECTION 4.**

If any provision of this Ordinance is held to be unlawful, invalid or unenforceable under any present or future laws or regulations, such provision shall be fully severable; and this Ordinance shall then be construed and enforced as if such unlawful, invalid or unenforceable provision had not been a part of it. The remaining provisions of this Ordinance shall remain in full force and effect and shall not be affected by such unlawful, invalid, or unenforceable provision or by its severance.

**SECTION 5.**

That this ordinance shall take effect on April 4, 2017.

**PASSED: February 27, 2017**

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**President of Council**

**ATTEST:** \_\_\_\_\_  
**City Clerk**

I, Ashley Ellrod, City Clerk of Upper Arlington, Ohio, do hereby certify that the above is a true and correct copy.

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City Clerk

**CERTIFICATE OF POSTING**

I, Ashley Ellrod, City Clerk of the City of Upper Arlington, Ohio, do hereby certify that publication of the foregoing was made by posting a true copy of Ordinance No. 14-2017 at the most public place in said corporation as determined by the Council, the Municipal Building, 3600 Tremont Road, for a period of ten (10) days commencing February 28, 2017.

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City Clerk of the City of Upper Arlington

**Vote Slip**

Sponsor: Ms. Casper  
Date Introduced: February 21, 2017

Legal Ad:  
Newspaper:

Reading Date(s): February 21 , 2017: February 27, 2017

Voting Aye: Unanimous  
Voting Nay:  
Abstain:  
Absent:

Date of Passage: February 27, 2017

City Council Conference Session/Other Review: February 6, 2017

Other: Thirty Day Clause;