

557.04 REGULATIONS FOR OPERATION AND RENTAL OF POWERCRAFT OF MORE THAN TEN HORSEPOWER.

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OH

Sheffield Lake

Codified Ordinances of Sheffield Lake, OH

557.04 REGULATIONS FOR OPERATION AND RENTAL OF POWERCRAFT OF MORE THAN TEN HORSEPOWER.

CHAPTER 557 Watercraft

557.01 DEFINITIONS.

(a) As used in this chapter:

(1) "Canoe" means a narrow vessel of shallow draft, pointed at both ends and propelled by human muscular effort, and includes kayaks, racing shells, and rowing sculls.

(2) "Coast Guard approved" means bearing an approval number assigned by the United States Coast Guard.

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

(4) "Drug of abuse" has the same meaning as in Ohio R.C. 4506.01.

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

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

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

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

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

(10) "Inflatable watercraft" means any vessel constructed of rubber, canvas or other material which is designed to be inflated with any gaseous substance, constructed with two or more air cells and operated as a vessel. Inflatable watercraft propelled by a motor shall be classified as powercraft and shall be registered by length. Inflatable watercraft propelled by a sail shall be classified as a sailboat and shall be registered by length.

(11) "Law enforcement vessel" means any vessel used in law enforcement and under the command of a law enforcement officer.

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

(13) "Navigable waters" means waters which come under the jurisdiction of the Department of the Army of the United States and any waterways within or adjacent to this Municipality, except inland lakes having neither a navigable inlet nor outlet.

(14) "No wake" has the same meaning as "idle speed."

(15) "Operator" includes any person who navigates or has under the person's control a vessel, or vessel and detachable motor, on the waters in this Municipality.

(16) "Owner" includes any person who claims lawful possession of a vessel by virtue of legal title or equitable interest therein that entitled the person to that possession.

(17) "Person" includes any legal entity defined as a person in Ohio R.C. 1.59 and any body politic, except the United States and this State, and includes any agent, trustee, executor, receiver,

assignee or other representative thereof.

(18) "Personal watercraft" means a vessel, less than 16 feet in length, that is propelled by machinery and designed to be operated by an individual sitting, standing or kneeling on the vessel rather than by an individual sitting or standing inside the vessel.

(19) "Powercraft" means any vessel propelled by machinery, fuel, rockets or similar devices.

(20) "Rowboat" means any vessel, except a canoe, that is designed to be rowed and which is propelled by human muscular effort by oars or paddles and upon which no mechanical propulsion device, electric motor, internal combustion engine or sail has been affixed or is used for the operation of such vessel.

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

A. Any sailboat equipped with an inboard engine is deemed a powercraft with auxiliary sail.

B. Any sailboat equipped with a detachable motor is deemed a sailboat with auxiliary power.

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

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

(23) "Type 1 personal flotation device" means a device which is designed to turn an unconscious person floating in water from face downward position to a vertical or slightly face upward position and that has at least 9 kilograms, approximately 20 pounds, of buoyancy.

(24) "Type 2 personal flotation device" means a device which is designed to turn an unconscious person in the water from a face downward position to a vertical or slightly face upward position and that has at least 7 kilograms, approximately 15-2/5 pounds, of buoyancy.

(25) "Type 3 personal flotation device" means a device which is designed to keep a conscious person in a vertical or slightly face upward position and that has at least 7 kilograms approximately 15-2/5 pounds, of buoyancy.

(26) "Type 4 personal flotation device" means a device which is designed to be thrown to a person in the water and not worn and that has at least 7-1/2 kilograms, approximately 16-1/2 pounds, of buoyancy.

(27) "Type 5 personal flotation device" means a device that, unlike other personal flotation devices, has limitations on its approval by the United States Coast Guard, including, without limitation, all of the following:

A. The approval label on the type five personal flotation device indicates that the device is approved for the activity in which the vessel is being used or as a substitute for a personal flotation device of the type required on the vessel in use;

B. The personal flotation device is used in accordance with any requirements on the approval label;

C. The personal flotation device is used in accordance with requirements in its owner's manual if the approval label refers to such a manual.

(28) "Vessel" includes every description of craft, including nondisplacement craft and sea planes, designed to be used as a means of transportation on water.

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

(30) "Watercraft."

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

1. A vessel operated by machinery either permanently or temporarily affixed;
 2. A sailboat other than a sailboard;
 3. An inflatable or manually propelled boat that is required by Federal law to have a hull identification number meeting the requirements of the United States Coast Guard; or
 4. A canoe or rowboat.
- B. "Watercraft" does not include ferries as referred to in Ohio R.C. Chapter 4583.
- C. Watercraft subject to Ohio R.C. 1547.54 shall be divided into five classes as follows:
1. Class A: Less than 16 feet in length;
 2. Class 1: At least 16 feet but less than 26 feet in length;
 3. Class 2: At least 26 feet but less than 40 in length;
 4. Class 3: At least 40 feet but less than 65 feet in length; and
 5. Class 4: At least 65 feet in length.

(31) "Watercraft dealer" means any person who is regularly engaged in the business of manufacturing, selling, displaying, offering for sale or dealing in vessels at an established place of business. "Watercraft dealer" does not include a person who is a marine salvage dealer or any other person who dismantles, salvages or rebuilds vessels using used parts.

(32) "Waters in this Municipality" means all streams, rivers, lakes, ponds, marshes, watercourses, waterways and all other bodies of water, natural or human-made, which are situated wholly or partially within this Municipality or within its jurisdiction and are used for recreational boating.

(b) Unless otherwise provided, this chapter applies to all vessels operating on the waters in this Municipality. Nothing in this chapter shall be construed in contravention of any valid Federal or State act or regulation, but is in addition to the act or regulation where not inconsistent. (Ord. 79-07. Passed 11-13-07.)

557.02 FLASHING LIGHTS PROHIBITED; EXCEPTIONS.

(a) No person shall install or use any intermittently flashing light of an type or color on any vessel in use or operation on the waters in this Municipality, except in accordance with Federal law.

(b) No person shall operate or permit to be operated any vessel on the waters in this Municipality in violation of this section.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(Ord. 79-07. Passed 11-13-07.)

557.03 SIREN PROHIBITED; EXCEPTIONS.

(a) No person, except an authorized watercraft representative of the Federal government, the State, or any of its political subdivisions shall use or operate a siren on the waters in this Municipality except for emergency purposes.

(b) No person shall operate or permit to be operated any vessel on the waters in this Municipality in violation of this section.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(Ord. 79-07. Passed 11-13-07.)

557.04 REGULATIONS FOR OPERATION AND RENTAL OF POWERCRAFT OF MORE THAN TEN HORSEPOWER.

(a) No person born on or after January 1, 1982, shall operate on the waters in this Municipality a powercraft powered by more than 10 horsepower, unless the operator successfully has completed either a safe boater course approved by the National Association of State Boating Law Administrators or a proctored or nonproctored proficiency examination that tests knowledge of information included in the curriculum of such a course, and has received a certificate as evidence

of successful completion of the course or examination.

(b) A person born on or after January 1, 1982, who is operating on the waters in this Municipality a powercraft powered by more than 10 horsepower and who is stopped by a law enforcement officer in the enforcement of Ohio R.C. Chapter 1547 or rules adopted under it shall present to the law enforcement officer, not later than 72 hours after being stopped, a certificate obtained by the person pursuant to division (a) of this section prior to being stopped or proof of holding such a certificate. Failure of the person to present the certificate or proof of holding it within 72 hours constitutes prima facie evidence of a violation of division (a) of this section.

(c) No rental business shall lease, hire, or rent a powercraft powered by more than 10 horsepower for operation on the waters in this Municipality to a person born on or after January 1, 1982, unless the person meets one of the following requirements:

(1) The person signs a statement on the rental agreement or attached to the rental agreement that the person has successfully completed a safe boater course approved by the National Association of State Boating Law Administrators or has successfully completed a proficiency examination as provided in division (a) of this section.

(2) The person receives educational materials from the rental business and successfully passes, with a score of 90% or better, an abbreviated examination given by the rental business. The achievement of a passing score on the examination shall be indicated on or attached to the powercraft rental agreement.

(d) Any person born on or after January 1, 1982, operating or supervising the operation of a leased, hired, or rented powercraft shall:

(1) Meet the requirements for boater education of division (c) of this section.

(2) Be named as an operator on the agreement that leases, hires, or rents the powercraft.

(e) The Division of Watercraft shall make available to all watercraft rental businesses in the State boater safety educational materials and an abbreviated examination that shall be used by the watercraft rental business for the purposes of division (c)(2) of this section.

(f) Whoever violates division (a) or (b) of this section is guilty of a misdemeanor of the fourth degree if the violation is not related to a collision, injury to a person, or damage to property and a misdemeanor of the third degree if the violation is related to a collision, injury to a person, or damage to property.

(g) Whoever violates division (c) or (d) of this section is guilty of a minor misdemeanor.

(h) The sentencing court, in addition to the penalty provided under this section for a violation of this section or a rule adopted under it that involves a powercraft powered by more than 10 horsepower and that, in the opinion of the court, involves a threat to the safety of persons or property, shall order the offender to complete successfully a boating course approved by the National Association of State Boating Law Administrators before the offender is allowed to operate a powercraft powered by more than 10 horsepower on the waters in this State. Violation of a court order entered under this division is punishable as contempt under Ohio R.C. Chapter 2705. (Ord. 79-07. Passed 11-13-07.)

557.05 RESTRICTIONS ON CHILD OPERATORS; DUTY OF SUPERVISORY ADULT.

(a) Except as otherwise provided in this division, no person under 16 years of age shall operate a personal watercraft on the waters in this Municipality. A person who is not less than 12 nor more than 15 years of age may operate a personal watercraft if a supervising person 18 years of age or older is aboard the personal watercraft and, in the case of a supervising person born on or after January 1, 1982, if the supervising person holds a certificate obtained under Section 557.04(a) or, in the case of a rented powercraft, meets the requirements of Section 557.04(c) and (d).

(b) No person under 12 years of age shall operate any vessel on the waters in this Municipality unless the person is under the direct visual and audible supervision, during the operation, of a person who is 18 years of age or older. This division does not apply to a personal watercraft, which shall be governed by division (a) of this section, or to a powercraft, other than a personal watercraft, powered by more than 10 horsepower, which shall be governed by division (c) of this section.

(c) No person under 12 years of age shall operate on the waters in this Municipality a powercraft, other than a personal watercraft, powered by more than 10 horsepower unless the person is under the direct visual and audible supervision, during the operation, of a person 18 years of age or older who is aboard the powercraft and, in the case of such a supervising person born on or after January 1, 1982, who holds a certificate obtained under Section 557.04(a) or, in the case of a rented powercraft, meets the requirements of Section 557.04(c) and (d).

(d) No supervising person 18 years of age or older shall permit any person who is under the supervising person's supervision and who is operating a vessel on the waters in this Municipality to violate any section of this chapter, Ohio R.C. Chapter 1547 or a rule adopted under it.

(e) Whoever violates this section is guilty of a minor misdemeanor.

(Ord. 79-07. Passed 11-13-07.)

557.06 RECKLESS OPERATION.

(a) Any person who operates any vessel or manipulates any water skis, aquaplane, or similar device on the waters in this Municipality carelessly or heedlessly, or in disregard of the rights or safety of any person, vessel, or property, or without due caution, at a rate of speed or in a manner so as to endanger any person, vessel, or property is guilty of reckless operation of the vessel or other device.

(b) No person shall operate or permit the operation of a vessel in an unsafe manner. A vessel shall be operated in a reasonable and prudent manner at all times. Unsafe vessel operation includes, without limitation, any of the following:

(1) A vessel becoming airborne or completely leaving the water while crossing the wake of another vessel at a distance of less than 100 feet, or at an unsafe distance, from the vessel creating the wake;

(2) Operating at such a speed and proximity to another vessel or to a person attempting to ride on one or more water skis, surfboard, inflatable device, or similar device being towed by a vessel so as to require the operator of either vessel to swerve or turn abruptly to avoid collision;

(3) Operating less than 200 feet directly behind a person water skiing or attempting to water ski;

(4) Weaving through congested traffic.

(c) Whoever violates this section without causing injury to persons or damage to property is guilty of a misdemeanor of the fourth degree.

(d) Whoever violates this section causing injury to persons or damage to property is guilty of a misdemeanor of the third degree.

(Ord. 79-07. Passed 11-13-07.)

557.07 UNSAFE CONDITIONS.

(a) If a law enforcement officer observes a vessel being used and determines that at least one of the unsafe conditions identified in division (c) of this section is present and that an especially hazardous condition exists, the officer may direct the operator of the vessel to take whatever immediate and reasonable actions are necessary for the safety of the persons aboard the vessel, including directing the operator to return the vessel to mooring and remain there until the situation

creating the hazardous condition is corrected or has ended. For the purposes of this section, an especially hazardous condition is one in which a reasonably prudent person would believe that the continued operation of a vessel would create a special hazard to the safety of the persons aboard the vessel.

(b) The refusal by an operator of a vessel to terminate use of the vessel after being ordered to do so by a law enforcement officer under division (a) of this section is prima facie evidence of a violation of Section 557.06.

(c) For the purposes of this section, any of the following is an unsafe condition:

- (1) Insufficient personal flotation devices;
- (2) Insufficient fire extinguishers;
- (3) Overloaded, insufficient freeboard for the water conditions in which the vessel is operating;
- (4) Improper display of navigation lights;
- (5) Fuel leaks, including fuel leaking from either the engine or the fuel system;
- (6) Accumulation of or an abnormal amount of fuel in the bilges;
- (7) Inadequate backfire flame control;
- (8) Improper ventilation.

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

- (1) Foreign vessels temporarily using waters that are subject to the jurisdiction of the United States;
- (2) Military vessels, vessels owned by the State or a political subdivision, or other public vessels, except those that are used for recreation;
- (3) A ship's lifeboats, as defined in Ohio R.C. 1548.01;
- (4) Vessels that are solely commercial and that are carrying more than six passengers for hire. (Ord. 79-07. Passed 11-13-07.)

557.08 MARKING OF BATHING AND VESSEL AREAS.

(a) No person shall operate a vessel within or through a designated bathing area or within or through any area that has been buoyed off designating it as an area in which vessels are prohibited.

(b) (1) No person shall operate a vessel at greater than idle speed or at a speed that creates a wake under any of the following circumstances:

- A. Within 300 feet of any marina, boat docking facility, boat gasoline dock, launch ramp, recreational boat harbor, or harbor entrance on Lake Erie or on the Ohio River;
 - B. During the period from sunset to sunrise according to local time within any water between the Dan Beard bridge and the Brent Spence bridge on the Ohio River for any vessel not documented by the United States Coast Guard as commercial;
 - C. Within any area buoyed or marked as a no wake area on the waters in this Municipality.
- (2) Division (b)(1) of this section does not apply in either of the following places:
- A. An area designated by the Chief of the Division of Watercraft unless it is marked by a buoy or sign as a no wake or idle speed area;
 - B. Within any water between the Dan Beard bridge and the Brent Spence bridge on the Ohio River when the United States Coast Guard has authorized the holding of a special event of a community nature on that water.

(c) No person shall operate a vessel in any area of restricted or controlled operation in violation of the designated restriction.

(d) No person shall operate a vessel within 300 feet of an official diver's flag unless the person

is tendering the diving operation.

(e) (1) All areas of restricted or controlled operation as described in division (a) of this section or as provided for in Section 557.15 or Ohio R.C. 1547.16 or 1547.61 shall be marked by a buoy or sign designating the restriction. All waters surrounded by or lying between such a buoy or sign and the closest shoreline are thereby designated as an area in which the designated restrictions shall apply in the operation of any vessel.

(2) Markings on buoys designating areas of restricted or controlled operation shall be so spaced as to show all around the horizon. Lineal spacing between the buoys shall be such that under normal conditions of visibility any buoy shall be readily visible from the next adjacent buoy. No colors or symbols, except as provided for in rules of the Chief of the Division of Watercraft shall be used on buoys or signs for marking closed or controlled areas of boating waters.

(3) Any State department, conservancy district, or political subdivision having jurisdiction and control of impounded boating waters may place such buoys or signs on its waters. Any political subdivision may apply to the Chief of the Division of Watercraft for permission to place such buoys or signs on other waters within its territorial limits. No person shall place or cause to be placed a regulatory buoy or sign on, into, or along the waters in this Municipality unless the person has complied with all the provisions of this chapter and Ohio R.C. Chapter 1547.

(f) No person shall permit any vessel to be operated on the waters in this Municipality in violation of this section.

(g) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor. (Ord. 79-07. Passed 11-13-07.)

557.09 MOORING PROHIBITED IN CERTAIN AREAS.

(a) No person shall moor or anchor any vessel in a designated speed zone or water ski zone. No person, unless in distress and no other vessel is endangered thereby, shall moor to, anchor to, or tie up to any marker, aid, buoy, light, or other aid to navigation.

(b) No person shall operate or permit to be operated any vessel on the waters in this Municipality in violation of this section.

(c) Whoever violates this section is guilty of a minor misdemeanor (Ord. 79-07. Passed 11-13-07.)

557.10 OPERATING UNDER INFLUENCE OF ALCOHOL OR DRUGS PROHIBITED.

(a) No person shall operate or be in physical control of any vessel underway or shall manipulate any water skis, aquaplane, or similar device on the waters in this Municipality if, at the time of the operation, control, or manipulation, any of the following applies:

(1) The person is under the influence of alcohol, a drug of abuse, or a combination of them;

(2) The person has a concentration of 0.08% or more by weight of alcohol per unit volume in the person's whole blood;

(3) The person has a concentration of 0.096% or more by weight per unit volume of alcohol in the person's blood serum or plasma;

(4) The person has a concentration of 0.11 grams or more by weight of alcohol per 100 milliliters of the person's urine;

(5) The person has a concentration of 0.08 grams or more by weight of alcohol per 210 liters of the person's breath.

(6) Except as provided in division (h) 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 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 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 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 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 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 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 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 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 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 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 25 nanograms of L.S.D. per milliliter of the person's urine or has a concentration of L.S.D. in the person's whole blood or blood serum or plasma of at least 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 marihuana in the person's urine of at least 10 nanograms of marihuana per milliliter of the person's urine or has a concentration of marihuana in the person's whole blood or blood serum or plasma of at least 2 nanograms of marihuana per milliliter of the person's whole blood or blood serum or plasma.

H. Either of the following applies:

1. 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 marihuana metabolite in the person's urine of at least 15 nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least 5 nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.

2. As measured by gas chromatography mass spectrometry, the person has a concentration of marihuana metabolite in the person's urine of at least 35 nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least 50 nanograms of marihuana 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 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 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 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 10 nanograms of phencyclidine per milliliter of the person's whole blood or blood serum or plasma.

(b) No person under 21 years of age shall operate or be in physical control of any vessel underway or shall manipulate any water skis, aquaplane, or similar device on the waters in this Municipality if, at the time of the operation, control, or manipulation, any of the following applies:

(1) The person has a concentration of at least 0.02% but less than 0.08% by weight per unit volume of alcohol in the person's whole blood;

(2) The person has a concentration of at least 0.03% but less than 0.096% by weight per unit volume of alcohol in the person's blood serum or plasma.

(3) The person has a concentration of at least 0.028 grams, but less than 0.11 grams by weight of alcohol per 100 milliliters of the person's urine;

(4) The person has a concentration of at least 0.02 grams, but less than 0.08 grams by weight of alcohol per 210 liters of the person's breath.

(c) In any proceeding arising out of one incident, a person may be charged with a violation of division (a)(1) and a violation of division (b)(1), (2), (3) or (4) of this section, but the person shall not be convicted of more than one violation of those divisions.

(d) (1) In any criminal prosecution or juvenile court proceeding for a violation of division (a) or (b) this section or for an equivalent violation, the court may admit evidence on the concentration of alcohol or a drug of abuse, controlled substances, metabolites of a controlled substance, or a combination of them in the defendant's or child's whole blood, blood serum or plasma, urine, or breath at the time of the alleged violation as shown by chemical analysis of the substance withdrawn, or specimen taken within three 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 hour time limit specified in Section 557.11(c) or Ohio R.C. 1547.111(C) as the maximum period of time during which a person may consent to a chemical test or tests as described in that section.

(2) When a person submits to a blood test, 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 plasma. This limitation does not apply to the taking of breath or urine specimens. A person authorized to withdraw blood under this division (d) may refuse to withdraw blood under this division if, in that person's opinion, the physical welfare of the defendant or child would be endangered by withdrawing blood.

(3) The whole blood, blood serum or plasma, urine, or breath shall be analyzed in accordance with methods approved by the Director of Health by an individual possessing a valid permit issued by the Director pursuant to Ohio R.C. 3701.143.

(4) In a criminal prosecution or juvenile court proceeding for a violation of division (a) of this section or for a violation of a prohibition that is substantially equivalent to division (a) of this section, if there was at the time the bodily substance was taken a concentration of less than the applicable concentration of alcohol specified for a violation of division (a)(2), (a)(3), (a)(4), or (a)(5) 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 (a)(6) of this section, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant or in making an adjudication for the child. This division does not limit or affect a criminal prosecution or juvenile court proceeding for a violation of division (b) of this section or for a

violation of a prohibition that is substantially equivalent to that division.

(5) 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 completion of the test analysis.

(6) The person tested may have a physician, registered nurse, or qualified technician, chemist, or phlebotomist of the person's own choosing administer a chemical test or tests in addition to any administered at the direction of a law enforcement officer, and shall be so advised. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test or tests taken at the direction of a law enforcement officer.

(e) (1) In any criminal prosecution or juvenile court proceeding for a violation of division (a) or (b) of this section or for an equivalent violation, if a law enforcement officer has administered a field sobriety test to the operator or person found to be in physical control of the vessel underway involved in the violation or the person manipulating the water skis, aquaplane, or similar device 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 reliable, credible, and generally accepted field sobriety tests for vehicles that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that have been set by the National Highway Traffic Safety Administration, that by their nature are not clearly inapplicable regarding the operation or physical control of vessels underway or the manipulation of water skis, aquaplanes, or similar devices, all of the following apply:

A. The officer may testify concerning the results of the field sobriety test so administered.

B. The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.

C. If testimony is presented or evidence is introduced in division (e)(1)A. or (e)(1)B. 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.

(2) Division (e)(1) 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 criminal prosecution or juvenile court proceeding of a type described in that division, from considering evidence or testimony that is not otherwise disallowed by division (e)(1) of this section.

(f) (1) Subject to division (f)(3) of this section, in any criminal prosecution or juvenile court proceeding for a violation of this section or for an equivalent violation, the court shall admit as prima-facie evidence a laboratory report from any laboratory personnel issued a permit by the 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 tested and that contains all of the information specified in this division. 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 (f)(1) of this section is not admissible against the defendant or child 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 or child's attorney or, if the defendant or child has no attorney, on the defendant or child.

(3) A report of the type described in division (f)(1) of this section shall not be prima-facie evidence of the contents, identity, or amount of any substance if, within seven days after the defendant or child to whom the report pertains or the defendant's or child's attorney receives a copy of the report, the defendant or child or the defendant's or child's attorney demands the testimony of the person who signed the report. The judge in the case may extend the seven-day time limit in the interests of justice.

(g) 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, and a hospital, first-aid station, or clinic at which blood is withdrawn from a person pursuant to this section, is immune from criminal 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.

(h) Division (a)(6) of this section does not apply to a person who operates or is in physical control of a vessel underway or manipulates any water skis, aquaplane, or similar device 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.

(i) For the purposes of this section:

(1) "Cocaine" and "L.S.D." have the same meanings as in Ohio R.C. 2925.01.

(2) "Controlled substance" and "marihuana" have the same meanings as in Ohio R.C. 3719.01.

(3) "Equivalent violation" means a violation of a municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (a) or (b) of this section.

(4) "National Highway Traffic Safety Administration" has the same meaning as in Ohio R.C.4511.19.

(5) "Operate" means that a vessel is being used on the waters in this state when the vessel is not securely affixed to a dock or to shore or to any permanent structure to which the vessel has the right to affix or that a vessel is not anchored in a designated anchorage area or boat camping area that is established by the United States Coast Guard, this state, or a political subdivision and in which the vessel has the right to anchor.

(j) Whoever violates this section is guilty of a misdemeanor of the first degree and shall be

punished as provided in division (j)(1), (j)(2), or (j)(3) of this section.

(1) Except as otherwise provided in division (j)(2) or (j)(3) of this section, the court shall sentence the offender to a jail term of three consecutive days and may sentence the offender pursuant to Ohio R.C. 2929.24 to a longer jail term. In addition, the court shall impose upon the offender a fine of not less than one hundred fifty dollars (\$150.00) nor more than one thousand dollars (\$1,000). The court may suspend the execution of the mandatory jail term of three consecutive days that it is required to impose by this division (j)(1) if the court, in lieu of the suspended jail term, places the offender under a community control sanction pursuant to Ohio R.C. 2929.25 and requires the offender to attend, for three consecutive days, a drivers' intervention program that is certified pursuant to Ohio R.C. 3793.10. The court also may suspend the execution of any part of the mandatory jail term of three consecutive days that it is required to impose by this division (j)(1) if the court places the offender under a community control sanction pursuant to Ohio R.C. 2929.25 for part of the three consecutive days; requires the offender to attend, for that part of the three consecutive days, a drivers' intervention program that is certified pursuant to Ohio R.C. 3793.10; and sentences the offender to a jail term equal to the remainder of the three consecutive days that the offender does not spend attending the drivers' intervention program. The court may require the offender, as a condition of community control, to attend and satisfactorily complete any treatment or education programs, in addition to the required attendance at a drivers' intervention program, that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose any other conditions of community control on the offender that it considers necessary.

(2) If, within six years of the offense, the offender has been convicted of or pleaded guilty to one violation of this section; of Ohio R.C. 1547.11; of a municipal ordinance relating to operating a watercraft or manipulating any water skis, aquaplane, or similar device while under the influence of alcohol, a drug of abuse, a controlled substance, or a metabolite of a controlled substance or a combination of them; of a municipal ordinance relating to operating a watercraft or manipulating any water skis, aquaplane, or similar device with a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine; of Ohio R.C. 2903.06(A)(1); or of Ohio R.C. 2903.06(A)(2), (3) or (4) or Ohio R.C. 2903.06 or 2903.07 as they existed prior to March 23, 2000, in a case in which the jury or judge found that the offender was under the influence of alcohol, a drug of abuse, or a combination of them, the court shall sentence the offender to a jail term of 10 consecutive days and may sentence the offender pursuant to Ohio R.C. 2929.24 to a longer jail term. In addition, the court shall impose upon the offender a fine of not less than one hundred fifty dollars (\$150.00) nor more than one thousand dollars (\$1,000). In addition to any other sentence that it imposes upon the offender, the court may require the offender to attend a drivers' intervention program that is certified pursuant to Ohio R.C. 3793.10.

(3) If, within six years of the offense, the offender has been convicted of or pleaded guilty to more than one violation identified in division (j)(2) of this section, the court shall sentence the offender to a jail term of 30 consecutive days and may sentence the offender to a longer jail term of not more than one year. In addition, the court shall impose upon the offender a fine of not less than one hundred fifty dollars (\$150.00) nor more than one thousand dollars (\$1,000). In addition to any other sentence that it imposes upon the offender, the court may require the offender to attend a drivers' intervention program that is certified pursuant to Ohio R.C. 3793.10.

(4) Upon a showing that serving a jail term would seriously affect the ability of an offender sentenced pursuant to division (j)(1), (j)(2), or (j)(3) of this section to continue the offender's

employment, the court may authorize that the offender be granted work release after the offender has served the mandatory jail term of 3, 10, or 30 consecutive days that the court is required by division (j)(1), (j)(2), or (j)(3) of this section to impose. No court shall authorize work release during the mandatory jail term of 3, 10, or 30 consecutive days that the court is required by division (j)(1), (j)(2), or (j)(3) of this section to impose. The duration of the work release shall not exceed the time necessary each day for the offender to commute to and from the place of employment and the place in which the jail term is served and the time actually spent under employment.

(5) Notwithstanding any section of the Ohio Revised Code that authorizes the suspension of the imposition or execution of a sentence or the placement of an offender in any treatment program in lieu of being imprisoned or serving a jail term, no court shall suspend the mandatory jail term of 10 or 30 consecutive days required to be imposed by division (j)(2) or (j)(3) of this section or place an offender who is sentenced pursuant to division (j)(2) or (j)(3) of this section in any treatment program in lieu being imprisoned or serving a jail term until after the offender has served the mandatory jail term of 10 or 30 consecutive days required to be imposed pursuant to division (j)(2) or (j)(3) of this section. Notwithstanding any section of the Ohio Revised Code that authorizes the suspension of the imposition or execution of a sentence or the placement of an offender in any treatment program in lieu of being imprisoned or serving a jail term, no court, except as specifically authorized by division (j)(1) of this section, shall suspend the mandatory jail term of 3 consecutive days required to be imposed by division (j)(1) of this section or place an offender who is sentenced pursuant to division (j)(1) of this section in any treatment program in lieu of being imprisoned or serving a jail term until after the offender has served the mandatory jail term of 3 consecutive days required to be imposed pursuant to division (j)(1) of this section.

(6) As used in this division (j), "jail term" and "mandatory jail term" have the same meanings as in Ohio R.C. 2929.01.

(Ord. 79-07. Passed 11-13-07.)

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- Ordinances of Sheffield Lake, OH
- ORDINANCES OF THE CITY OF SHEFFIELD LAKE, OHIO
- ORDINANCE NO. 116-84
- ORDINANCES OF SHEFFIELD LAKE
- orderly Conduct and Peace Disturbance
- ORDER OF LAW ENFORCEMENT OFFICER; FLEEING AND ELUDING
- ord" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another
- ord. (8) "Idle speed" means the slowest possible speed needed to maintain steerage or maneuverability
- ordance with any requirements on the approval label;
- ordance with requirements in its owner's manual if the approval label refers to such a manual
- Ord. 79-07
- ordance with Federal law
- adopted under it shall present to the law enforcement officer, not later than 72 hours after being stopped, a certificate obtained by the person pursuant to division (a) of this section p
- adopted under it that involves a powercraft powered by more than 10 horsepower and that, in the opinion of the court, involves a threat to the safety of persons or property, shall order t
- order entered under this division is punishable as contempt under Ohio R
- adopted under it
- ordered to do so by a law enforcement officer under division (a) of this section is prima facie evidence of a violation of Section 557
- ording to local time within any water between the Dan Beard bridge and the Brent Spence bridge on the Ohio River for any vessel not documented by the United States Coast Guard as comm
- ordance with methods approved by the Director of Health by an individual possessing a valid permit issued by the Director pursuant to Ohio R
- ordance with the health professional's directions
- ordinance, law of another state, or law of the United States that is substantially equivalent to division (a) or (b) of this section
- ordinance relating to operating a watercraft or manipulating any water skis, aquaplane, or similar device while under the influence of alcohol, a drug of abuse, a controlled substance, or a
- ordinance relating to operating a watercraft or manipulating any water skis, aquaplane, or similar device with a prohibited concentration of alcohol in the whole blood, blood serum or plasma
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