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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

S.B. 193  
135<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Sens. Hoagland and Johnson

Ashley F. Dean, Attorney

### SUMMARY

- Adds drug trafficking, illegal manufacture of drugs, illegal cultivation of marijuana, drug trafficking funding, and drug possession to the definition of “specified offenses” used in terrorism offenses when committed by a major drug offender.
- Prohibits possession of an encapsulating or tableting machine when knowing or having reason to know that it is likely to be used to compound, convert, manufacture, prepare, process, or produce a counterfeit controlled substance.
- Creates the Pill Press Mold, Encapsulating Machine, and Tableting Machine Registry.

### DETAILED ANALYSIS

#### Pill press molds

The bill includes within the offense of trafficking in counterfeit controlled substances a prohibition against a person knowingly making, possessing, selling, offering to sell, or delivering an encapsulating machine or tableting machine, knowing or having reason to know that it is likely to be used to compound, convert, manufacture, prepare, process, or produce a counterfeit controlled substance.<sup>1</sup> A violation of this prohibition is generally a fifth degree felony. If the offense is committed in the vicinity of a school or in the vicinity of a juvenile, the penalty is a fourth degree felony.<sup>2</sup>

Within six months of the effective date of the bill, the Department of Public Safety must establish and maintain a Pill Press Mold, Encapsulating Machine, and Tableting Machine

<sup>1</sup> R.C. 2925.37(D).

<sup>2</sup> R.C. 2925.37(I).

Registry.<sup>3</sup> As part of establishing the Registry, the Department must adopt rules with respect to the Registry, and prescribe forms to be used by registrants to register, reregister, and provide notice of change of possession.<sup>4</sup> Any person who possesses a pill press mold, encapsulating machine, or tableting machine must register the mold or machine with the Department of Public Safety. A person who possesses a mold or machine on the date the Registry is established must register that mold or machine within six months after the date the Registry is established. A person who acquires possession of a mold or machine after the Registry is established must register the mold or machine within 30 days of acquisition.<sup>5</sup> A person who fails to register or reregister as required is guilty of failure to register with the Pill Press Mold, Encapsulating Machine, and Tableting Machine Registry, a first degree misdemeanor.<sup>6</sup>

To register a pill press mold, encapsulating machine, or tableting machine, the registrant obtains a registration form from the Department of Public Safety, completes and signs the form, and returns the completed and signed form to the Department.<sup>7</sup>

The registration form as prescribed by the Department must include all of the following information:<sup>8</sup>

- The registrant's full name and any alias used;
- The registrant's address;
- The registrant's telephone number;
- The registrant's Social Security number;
- The name and address of the registrant's place of employment;
- The name and address of any school or institution of higher education that the registrant is attending;
- The registrant's driver's license number or commercial driver's license number, or state identification card number;
- The license plate number of each vehicle owned or operated by the registrant or registered in the registrant's name, the vehicle identification number of each vehicle, and a description of each vehicle;
- The number and description of each pill press mold, encapsulating machine, or tableting machine that the registrant possesses;

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<sup>3</sup> R.C. 5502.09(B).

<sup>4</sup> R.C. 5502.09(G).

<sup>5</sup> R.C. 5502.09(C)(1).

<sup>6</sup> R.C. 5502.09(I).

<sup>7</sup> R.C. 5502.09(C)(2).

<sup>8</sup> R.C. 5502.09(C)(3).

- Any other information required by the Department of Public Safety.

A registrant is required to reregister one year after the registrant's last registration or reregistration. To reregister a pill press mold, encapsulating machine, or tableting machine, the registrant obtains a reregistration form from the Department of Public Safety, completes and signs the form, and returns the completed and signed form to the Department, along with any necessary amendments to the above-listed information required or any additional registration information required by the Department.<sup>9</sup>

If a registrant no longer possesses a pill press mold, encapsulating machine, or tableting machine, the registrant must provide notice of a change of possession to the Department of Public Safety by obtaining a copy of the notice of change of possession form from the Department, completing and signing the form, and returning the completed and signed form to the Department within 90 days of the change in possession.<sup>10</sup>

The Department of Public Safety must make the Pill Press Mold, Encapsulating Machine, or Tableting Machine Registry available to the Department and law enforcement agencies. The Registry is not subject to the Public Records Law.<sup>11</sup>

The requirement to register with the Pill Press Mold, Encapsulating Machine, or Tableting Machine Registry does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, prescribers, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Ohio law regarding controlled substances, dentist and dental hygienists, nurses, pharmacists, physician assistants, physicians, limited practitioners, and veterinarians.<sup>12</sup>

## **Terrorism offenses**

Continuing law prohibits a person from committing a specified offense with the purpose to intimidate or coerce a civilian population, influence the policy of any government by intimidation or coercion, or affect the conduct of any government by the specified offense.<sup>13</sup> The bill expands the definition of "specified offense" to include the following when the offense is committed by a major drug offender:<sup>14</sup>

- Aggravated trafficking in drugs;
- Trafficking in drugs;
- Trafficking in marihuana;

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<sup>9</sup> R.C. 5502.09(D).

<sup>10</sup> R.C. 5502.09(E).

<sup>11</sup> R.C. 5502.09(F).

<sup>12</sup> R.C. 5502.09(H).

<sup>13</sup> R.C. 2909.24(A).

<sup>14</sup> R.C. 2909.21(M)(3) and (5).

- Trafficking in cocaine;
- Trafficking in L.S.D.;
- Trafficking in heroin;
- Trafficking in hashish;
- Trafficking in a controlled substance analog;
- Trafficking in a fentanyl-related compound;
- Illegal manufacture of drugs;
- Illegal cultivation of marihuana;
- Aggravated funding of drug trafficking;
- Funding of drug trafficking;
- Funding of marihuana trafficking;
- Aggravated possession of drugs;
- Possession of drugs;
- Possession of marihuana;
- Possession of cocaine;
- Possession of L.S.D.;
- Possession of heroin;
- Possession of hashish;
- Possession of a controlled substance analog;
- Possession of a fentanyl-related compound;
- An attempt to commit, complicity in committing, or a conspiracy to commit any of the above-listed controlled substances.

Where the specified offense under a terrorism charge is a qualifying drug offense described above committed by a major drug offender, the element “intimidate or coerce a civilian population” is established if in committing the specified offense the offender caused or created a substantial risk of serious physical harm or death to one or more persons. Generally, terrorism is an offense one degree higher than the most serious underlying specified offense the defendant committed. If the most serious underlying specified offense the defendant committed is a first degree felony, the mandatory sentence is life imprisonment without parole if the offender was over 18 years of age at the time of the offense. If the offender was under 18 years

of age at the time of the violation, the offender will instead be sentenced to an indefinite prison term of 30 years to life.<sup>15</sup>

## Definitions

The bill defines the following terms:

- “Counterfeit controlled substance” means any of the following:<sup>16</sup>
  - Any drug that bears, or whose container or label bears, a trademark, trade name, or other identifying mark used without authorization of the owner of rights to that trademark, trade name, or identifying mark;
  - Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed, or distributed by a person other than the person that manufactured, processed, packed, or distributed it;
  - Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance;
  - Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size, and color, or its markings, labeling, packaging, distribution, or the price for which it is sold or offered for sale.
- “Encapsulating machine” or “tableting machine” means a machine that may be used to compound, convert, manufacture, prepare, process, or produce a counterfeit controlled substance.<sup>17</sup>
- “Law enforcement agency” means a municipal or township police department, a county sheriff’s office, or the state highway patrol.<sup>18</sup>
- “Licensed health professional authorized to prescribe drugs” or “prescriber” means an individual who is authorized by law to prescribe drugs or dangerous drugs or drug therapy related devices in the course of the individual’s professional practice, including only the following:<sup>19</sup>
  - A licensed dentist;
  - A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a current, valid license to practice nursing as an advanced practice registered nurse;

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<sup>15</sup> R.C. 2909.24(B).

<sup>16</sup> R.C. 5502.09(A)(1) and 2925.01, not in the bill.

<sup>17</sup> R.C. 5502.09(A)(2).

<sup>18</sup> R.C. 5502.09(A)(3).

<sup>19</sup> R.C. 5502.09(A)(4) and 4729.01, not in the bill.

- A certified registered nurse anesthetist who holds a current, valid license to practice nursing as an advanced practice registered nurse, but only to the extent of the nurse’s authority;
  - An optometrist licensed to practice optometry;
  - A physician authorized to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;
  - A physician assistant who holds a license to practice as a physician assistant, holds a valid prescriber number issued by the state medical board, and has been granted physician-delegated prescriptive authority;
  - A licensed veterinarian.
- “Major drug offender” means an offender who is convicted of or pleads guilty to the possession of, sale of, or offer to sell any drug, compound, mixture, preparation, or substance that consists of or contains at least 1,000 grams of hashish; at least 100 grams of cocaine; at least 1,000 unit doses or 100 grams of heroin; at least 5,000 unit doses of L.S.D. or 500 grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form; at least 50 grams of a controlled substance analog; at least 1,000 unit doses or 100 grams of a fentanyl-related compound; or at least 100 times the amount of any other schedule I or II controlled substance other than marihuana that is necessary to commit a third degree felony pursuant to the offenses of drug trafficking, illegal manufacture of drugs, illegal cultivation of marihuana, and related offenses, drug trafficking funding, or drug possession.<sup>20</sup>
  - “Pill press mold” means a punch, die, plate, stone, or other device that may be used to print or reproduce a trademark, trade name, or other identifying mark upon a counterfeit controlled substance.<sup>21</sup>

## Technical changes

The bill makes necessary cross-reference changes.<sup>22</sup>

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## HISTORY

Action	Date
Introduced	11-21-23

ANSB0193IN-135/ar

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<sup>20</sup> R.C. 2909.21(P) and 2929.01, not in the bill.

<sup>21</sup> R.C. 5502.09(A)(5).

<sup>22</sup> R.C. 2909.21, 2909.24, 2925.37, and 3719.21.