



## Legislation Text

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**File #:** 0262-2012, **Version:** 1

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The purpose of this legislation is to clarify and amend Section 2317.50 of the Columbus City Code, 1959, pertaining to Loitering in Aid of a Drug Offenses. In response to numerous lawsuits across the country, this ordinance amends Section 2317.50 to provide safety officers with a constitutional tool to combat illegal loitering. This legislation adds clarity to the definitions of the elements of prima facie evidence of Loitering in Aid of a Drug Offense. It improves on current language by differentiating between lawful activities and loitering in aid of drug offense or intent to participate in illegal activity. This ordinance increases the penalties for all Loitering in Aid of a Drug Offense violations from an M4 to an M1 and requires jail time without eligibility for work release if the violation takes place within 1,000 feet of specific community facilities, such as playgrounds and schools. Taken together, these changes will assist in more effective policing and prosecution of Loitering in Aid of a Drug Offense violations.

To amend Section 2317.50 of the Columbus City Code 1959, pertaining to Loitering in Aid of Drug Offenses.

**WHEREAS**, in response to numerous lawsuits across the country, this ordinance amends Section 2317.50 to provide safety officers with a constitutional tool to combat illegal loitering; and

**WHEREAS**, this ordinance adds clarity to the definitions of the elements of prima facie evidence of Loitering in Aid of a Drug Offense; and

**WHEREAS**, this ordinance improves on current language by differentiating between lawful activities and loitering in aid of drug offense or intent to participate in illegal activity; and

**WHEREAS**, this ordinance increases the penalties for all Loitering in Aid of a Drug Offense violations from an M4 to an M1 and requires jail time without eligibility for work release if the violation takes place within 1,000 feet of specific community facilities, such as playgrounds and schools; and

**WHEREAS**, taken together, these changes will assist in more effective policing and prosecution of Loitering in Aid of a Drug Offense violation; now therefore

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS, OHIO:**

**Section 1:** That Section 2317.50 of the Columbus City Codes, 1959, shall be amended to read as follows:

**2317.50 - Loitering in aid of drug offenses.**

(A) No person, while in or about a public place, shall do any of the following with purpose to commit or aid the commission of a drug abuse offense: ~~with purpose to commit or aid the commission of a drug abuse offense, shall loiter in any public place.~~

- (1) Repeatedly beckon, stop, attempt to stop, or engage passers-by or pedestrians in conversation; or
- (2) Repeatedly stop or attempt to stop motor vehicles; or
- (3) Repeatedly interfere with the free passage of other persons; or

- (4) Direct pedestrians or motorists through words, hailing, waving of arms, pointing, signaling or other bodily gestures to a person or premises where controlled substances are possessed or sold; or
- (5) Transfer small objects or packages in a furtive or surreptitious fashion in exchange for currency or any other thing of value, such as to lead an observer to believe or ascertain that a drug sale has or is about to occur; or
- (6) Act as a lookout by communicating the fact that law enforcement officers are in the vicinity to another person, in a manner which suggests that the communication is a warning.

(B) For purposes of this section, the term "drug abuse offense" has the same meaning as found in Section 2925.01(H) (G) of the Revised Code. The term has the same meaning as "controlled substance" as found in Section 3719.01(D) (C) of the Revised Code.

(C) For purposes of this section the term loiter means to resort to, remain, or wander about in an idle manner essentially in one place and shall include the concepts of spending time idly, or sitting, standing or walking about aimlessly.

(D)(C) For purposes of this section, the term "public place" means an area of property, either publicly owned or to which the public has access, and includes but is not limited to streets, alleys, sidewalks, rights of way, bridges, plazas, parks, driveways, parking lots, transportation facilities, or other place open to the public, the doorways, entrances, porches, passageways, and roofs to any such building which fronts on any of the aforesaid places, or motor vehicles in or upon such places.

(E) In determining the purpose of an offender under this section, the Court shall consider all relevant surrounding circumstances, which may include but are not limited to the following factors:

- (1) Repeatedly beckon, stop, attempt to stop, or engage passers by or pedestrians in conversation; or
- (2) Repeatedly stop or attempt to stop motor vehicles; or
- (3) Repeatedly interfere with the free passage of other persons.
- (4) That the person has been convicted or been found delinquent for a drug abuse offense.
- (5) That the person is loitering and directing pedestrians or motorists through words, hailing, waving of arms, pointing, signaling or other bodily gestures to a person or premises where controlled substances are possessed or sold.
- (6) That the person is loitering and has a cordless telephone, cellular telephone, walkie talkie, or beeper within 100 yards of a person or premises where controlled substances are possessed or sold.
- (7) Any statement by the offender.

(G) (D) No arrest shall be made for a violation of this section until the arresting officer first requests and affords such person an opportunity to explain such conduct. No person shall be convicted if it appears that the explanation rendered is true and the surrounding circumstances disclosed a lawful purpose.

(H) (E) (1) Whoever violates this section is guilty of loitering in aid of drug offenses, a misdemeanor of the fourth first degree. If the offender previously has been convicted of or pleaded guilty to a violation of this section, loitering in aid of drug offenses is guilty of a misdemeanor of the second degree.

(2) If the offense occurred in a school building, on school premises, or within one thousand (1,000) feet of the boundaries of school premises, public library premises, community center premises, or playground premises, then the court shall impose a mandatory jail term of at least ten (10) consecutive days during which mandatory jail term the defendant shall not be eligible for work release.

**Section 2.** Severability Clause. That if any section, sentence, clause, or phrase contained in this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, it shall in no way affect the validity of any remaining portions of this ordinance.

**Section 3.** That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

(Ord. 2535-94.)

