



Members Only

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An Updated Summary of Ohio OVI and OVUAC Law*

PREPARED BY: DENNIS M. PAPP, LSC STAFF ATTORNEY

REVIEWED BY: RICHARD LEE MERKEL, LSC DIVISION CHIEF

The General Assembly has enacted several laws that prohibit the operation of a vehicle while under the influence of alcohol, a drug of abuse, or both, or with a prohibited concentration of alcohol, a specified controlled substance, or a metabolite of a specified controlled substance in the blood, breath, or urine (“OVI”) and that otherwise pertain to conduct of that nature. Additionally, the General Assembly has enacted laws that prohibit the operation of a vehicle, streetcar, or trackless trolley after under-age alcohol consumption (“OVUAC”) and that otherwise pertain to conduct of that nature. The laws provide both pre-trial sanctions that apply to a person who is arrested for, and post-conviction sanctions that apply to a person who is convicted of or pleads guilty to, either offense.

The General Assembly also has enacted related laws, not discussed in this brief, that prohibit: (1) being in “physical control” of a vehicle, streetcar, or trackless trolley (i.e., being in the driver’s position with possession of the ignition key) while under the influence of alcohol, a drug of abuse, or both, or with a prohibited concentration of alcohol, a specified controlled substance, or a metabolite of a specified controlled substance in the blood, breath, or urine, and (2) operating or being in physical control of a vessel or manipulating any water skis, aquaplane, or similar device while under the influence of alcohol, a drug of abuse, or both, or with a prohibited concentration of alcohol, a specified controlled substance, or a metabolite of a specified controlled substance in the blood, breath, or urine.

Many municipal corporations have enacted ordinances that prohibit the operation of a vehicle while under the influence of alcohol, a drug of abuse, or both, or with a prohibited concentration of alcohol, a specified controlled substance, or a metabolite of a specified controlled substance in the blood, breath, or urine (“municipal OVI”), but, other than in relation to fine distribution, vehicle immobilization and forfeiture, driver’s license suspensions, and point assessment provisions specified under state law, state

A person who is arrested for OVI or OVUAC may be subject to both pre-trial and post-conviction sanctions.

Municipal corporations often have ordinances similar to OVI, and, with a few exceptions, state law generally does not address the sanctions for violations of them.

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law does not address the sanctions for violations of those ordinances and this brief does not discuss the ordinances or the sanctions for them.

Offense of OVI

OVI prohibitions

In general. A person commits the offense of OVI if the person operates a vehicle, streetcar, or trackless trolley in Ohio: (1) while under the influence of alcohol, a drug of abuse, or both, (2) with a prohibited concentration of alcohol in his or her whole blood, blood serum or plasma, breath, or urine, or (3) with a prohibited concentration of amphetamine, cocaine, heroin, L.S.D., marihuana, methamphetamine, phencyclidine, salvia divinorum or salvinorin A (if a prohibited concentration has been specified by the State Board of Pharmacy), or a metabolite of cocaine, heroin, or marihuana in his or her urine, whole blood, or blood serum or plasma. The prohibitions described in clauses (2) and (3) are known as “*per se*” violations. The alcohol-related prohibited concentrations are divided into “standard-level” concentrations and “high-level” concentrations.

The standard-level prohibited concentrations for alcohol are as follows: (1) eight-hundredths of 1% or more but less than seventeen-hundredths of 1% by weight of alcohol

in the whole blood, (2) ninety-six-thousandths of 1% or more but less than two hundred four-thousandths of 1% by weight of alcohol in the blood serum or plasma, (3) eight-hundredths of one gram or more but less than seventeen-hundredths of one gram by weight of alcohol per 210 liters of breath, and (4) eleven-hundredths of one gram or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per 100 milliliters of urine.

The high-level prohibited concentrations for alcohol, for which there are longer periods of incarceration, are as follows: (1) seventeen-hundredths of 1% or more by weight of alcohol in the whole blood, (2) two hundred four-thousandths of 1% or more by weight of alcohol in the blood serum or plasma, (3) seventeen-hundredths of one gram or more by weight of alcohol per 210 liters of breath, and (4) two hundred thirty-eight-thousandths of one gram or more by weight of alcohol per 100 milliliters of urine.

The controlled substance-related and controlled substance metabolite-related prohibited concentrations vary, depending upon the controlled substance involved (e.g., a concentration of amphetamine in the person’s urine of at least 500 nanograms of amphetamine per milliliter of the person’s urine, a concentration of cocaine in

OVI includes several distinct prohibitions—an “under the influence” prohibition, a “standard-level” and a “high-level alcohol-related prohibited concentration” prohibition, a “controlled substance-related and controlled substance metabolite-related prohibited concentration” prohibition, and a “repeat offender–refusal-related” prohibition.



the person's urine of at least 150 nanograms of cocaine per milliliter of the person's urine, or a concentration of heroin metabolite (6-monoacetyl morphine) in the person's urine of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's urine, etc.).

Repeat offender--refusal-related prohibition. A person also commits OVI if the person: (1) operates a vehicle, streetcar, or trackless trolley in Ohio while under the influence of alcohol, a drug of abuse, or both, (2) within the preceding 20 years, previously was convicted of OVI, OVUAC, municipal OVI, or an equivalent offense (a defined term), and (3) refuses to submit to a chemical test or tests after being arrested for the offense described in clause (1) above, being asked by a law enforcement officer to submit to a chemical test or tests, and being advised of the consequences of a refusal. A violation of this prohibition is subject to the same penalties as OVI involving a high-level alcohol prohibited concentration violation.

Pre-trial OVI sanctions

The main pre-trial sanction that may be imposed upon a person who is arrested for OVI is the administrative suspension of the person's

driver's license or permit, which is known as an "Administrative License Suspension" or "ALS" and is discussed below in "***Pre-trial sanctions for OVI, OVUAC, and municipal OVI.***"

Post-conviction OVI sanctions--judicially imposed

The law provides several types of sanctions for OVI that may be, or in certain cases must be, imposed by the court that sentences a person who is convicted of or pleads guilty to the offense. The sanctions vary, depending upon the offender's record of prior convictions or guilty pleas and the other circumstances of the offense. The offenses that are considered as "priors" are OVI and other specified "equivalent offenses" (defined in R.C. 4511.181). The following charts set forth the degree of offense, and a listing in general terms of the required or authorized incarceration, intervention, treatment, fine, license suspension, and vehicle immobilization or forfeiture sanctions for OVI, in the specified circumstances. For more detail about the sanctions, see R.C. 4511.19(G). As used in the charts, "EMHA" means house arrest with electronic monitoring, "CAMHA" means house arrest with continuous alcohol monitoring, and "HA" means house arrest of any type.

The judicially imposed post-conviction sanctions for OVI include required or authorized incarceration, intervention, treatment, fines, driver's license suspensions, and vehicle immobilizations or forfeitures.

Judicially imposed post-conviction sanctions for violation of R.C. 4511.19(A)(1)(a), (b), (c), (d) (e), or (j) (Under the influence, standard level alcohol, or controlled substance/metabolite violation)				
Prior record	Degree of offense; incarceration; intervention; and treatment	Fines (the minimum specified is mandatory; additional amounts are discretionary)	License suspensions	Vehicle immobilization or forfeiture
No priors within 6 years	M1 Mandatory jail term of 3 consecutive days and permissive additional term of up to 6 months total; any or all of 3 consecutive days may be suspended and replaced with community control sanction requiring driver's intervention program; permissive intervention program, other treatment or education programs, or community control sanctions in addition to jail time	\$375 to \$1,075	Class 5 judicial suspension (definite period of 6 months to 3 years)	
One prior within 6 years	M1 Mandatory jail term of 10 consecutive days and permissive additional term of up to 6 months total; permissive alternative to mandatory 10-day term of jail term of 5 consecutive days and not less than 18 days of EMHA, CAMHA, or both (total of jail time and house arrest cannot exceed 6 months); mandatory assessment by alcohol and drug treatment program and compliance with its treatment recommendations	\$525 to \$1,625	Class 4 judicial suspension (definite period of 1 to 5 years)	Immobilization for 90 days of vehicle involved in the offense and impoundment for 90 days of license plates of vehicle involved in offense, if vehicle registered in the offender's name
Two priors within 6 years	Misdemeanor Mandatory jail term of 30 consecutive days and permissive additional jail term of up to one year total; permissive alternative to mandatory 30-day term of jail term of 15 consecutive days and not less than 55 days of EMHA, CAMHA, or both (total of jail time and house arrest cannot exceed 1 year); mandatory participation in alcohol and drug treatment program and compliance with its treatment recommendations	\$850 to \$2,750	Class 3 judicial suspension (definite period of 2 to 10 years)	Criminal forfeiture of vehicle involved in the offense to the state, if vehicle registered in the offender's name
Three or four priors within 6 years or five or more priors within 20 years	F4 If also convicted of charge of 5 priors within 20 years, mandatory prison term of 1, 2, 3, 4, or 5 years; if no conviction of such a charge, mandatory local incarceration or prison term of 60 consecutive days; if mandatory local incarceration, permissive additional jail term up to total of 1 year and permissive EMHA; if mandatory prison term, permissive additional definite prison term of 6 to 30 months and permissive community control sanction; mandatory participation in alcohol and drug treatment program and compliance with its treatment recommendations	\$1,350 to \$10,500	Class 2 judicial suspension (definite period of 3 years to life)	Criminal forfeiture of vehicle involved in the offense to the state, if vehicle registered in the offender's name
Prior felony OVI	F3 If also convicted of charge of 5 priors within 20 years, mandatory prison term of 1, 2, 3, 4, or 5 years; if no conviction of such a charge, mandatory prison term of 60 consecutive days; permissive additional prison term or community control sanction (additional term plus 60-day term cannot exceed 5 years); mandatory participation in alcohol and drug treatment program and compliance with its treatment recommendations	\$1,350 to \$10,500	Class 2 judicial suspension (definite period of 3 years to life)	Criminal forfeiture of vehicle involved in the offense to the state, if vehicle registered in the offender's name

Judicially imposed post-conviction sanctions for violation of R.C. 4511.19(A)(1)(f), (g), (h), or (i) or (2) (High level alcohol violation or repeat offender refusal-related violation)				
Prior record	Degree of offense; incarceration; intervention; and treatment	Fines (the minimum specified is mandatory; additional amounts are discretionary)	License suspensions	Vehicle immobilization or forfeiture
No priors within 6 years	M1 Mandatory jail term of at least 3 consecutive days plus 3 consecutive days of driver's intervention program or mandatory jail term of at least 6 days (if not conducive to treatment, refusal to attend, or no available program); permissive treatment or education program recommended by intervention program as community control sanction and permissive other community control sanctions	\$375 to \$1,075	Class 5 judicial suspension (definite period of 6 months to 3 years)	
One prior within 6 years	M1 Mandatory jail term of 20 consecutive days and permissive additional jail term of up to 6 months total; permissive alternative to mandatory 20-day term of jail term of 10 consecutive days and not less than 36 days of EMHA, CAMHA, or both (total of jail time and house arrest cannot exceed 6 months); mandatory assessment by alcohol and drug treatment program and compliance with its treatment recommendations	\$525 to \$1,625	Class 4 judicial suspension (definite period of 1 to 5 years)	Immobilization of vehicle involved in the offense for 90 days and impoundment for 90 days of license plates of vehicle involved in the offense, if vehicle registered in the offender's name
Two priors within 6 years	Misdemeanor Mandatory jail term of 60 consecutive days and permissive additional jail term of up to one year total; permissive alternative to mandatory 60-day term of jail term of 30 consecutive days and not less than 55 days of EMHA, CAMHA, or both (total of jail time and HA cannot exceed one year); mandatory participation in alcohol and drug treatment program and compliance with its treatment recommendations	\$850 to \$2,750	Class 3 judicial suspension (definite period of 2 to 10 years)	Criminal forfeiture of vehicle involved in the offense to the state, if vehicle registered in the offender's name
Three or four priors within 6 years or five or more priors within 20 years	F4 If also convicted of charge of 5 priors within 20 years, mandatory prison term of 1, 2, 3, 4, or 5 years; if no conviction of such a charge, mandatory local incarceration or prison term of 120 consecutive days; if mandatory local incarceration, permissive additional jail term of up to one year total and permissive EMHA; if mandatory prison term, permissive additional definite prison term of 6 to 30 months and permissive community control sanction; mandatory participation in alcohol and drug treatment program and compliance with its treatment recommendations	\$1,350 to \$10,500	Class 2 judicial suspension (definite period of 3 years to life)	Criminal forfeiture of vehicle involved in the offense to the state, if vehicle registered in the offender's name
Prior felony OVI	F3 If also convicted of charge of 5 priors within 20 years, mandatory prison term of 1, 2, 3, 4, or 5 years; if no conviction of such a charge, mandatory prison term of 120 consecutive days; permissive additional prison term or community control sanction (additional term plus 120-day term cannot exceed 5 years); mandatory participation in alcohol and drug treatment program and compliance with its treatment recommendations	\$1,350 to \$10,500	Class 2 judicial suspension (definite period of 3 years to life)	Criminal forfeiture of vehicle involved in the offense to the state, if vehicle registered in the offender's name



The post-conviction sanctions for OVI and other related offenses also include the assessment by the Registrar of Motor Vehicles of points against the offender's driver's license.

The mandatory fine imposed on an offender must be disbursed to various recipients specified by statute. The Registrar of Motor Vehicles (the Registrar) must credit against a suspension described above in the charts any time during which the person serves a related administrative license suspension imposed as described below in "**Refusal to submit to a chemical test**" or "**Submission to a chemical test**" under "**Pre-trial sanctions for OVI, OVUAC, and municipal OVI.**" Detailed provisions govern the immobilization and impoundment, or criminal forfeiture, of motor vehicles under an order issued as described above in the charts. In specified circumstances involving undue hardship to family or household members of the offender, a court that otherwise would be required to issue an immobilization order may waive the immobilization and permit specified family or household members of the offender to operate the vehicle in question during the period for which the immobilization otherwise would be required.

If an offender's license is suspended under a provision described above in the charts, after the expiration of a specified period of the suspension, the court may grant the offender limited driving privileges during the suspension period in specified circumstances. If a court grants an offender limited driving privileges, the court must in

certain cases and may in other cases impose conditions upon the offender's exercise of the privileges. The conditions include the use of ignition interlock devices, immobilizing or disabling devices including those that monitor the offender's alcohol consumption, continuous alcohol monitoring devices, and restricted license plates.

**Post-conviction OVI sanctions--
point assessment**

A person who is convicted of or pleads guilty to any of a list of specified offenses involving a moving motor vehicle (e.g., vehicular homicide, OVI, OVUAC, reckless operation, speeding, etc.) is assessed a specified number of points against his or her driver's license by the Registrar. The assessments range from two points for less serious violations to six points for more serious violations. The accumulation of 12 or more points against a person's license within a two-year period results in a Class D administrative suspension (a period of six months) of that license. The offender has a right to appeal the suspension. An offender who is convicted of OVI or municipal OVI is assessed six points, and a person who is convicted of OVUAC or a violation of an equivalent municipal ordinance (see "**Offense of OVUAC,**" below) is assessed four points.



Offense of OVUAC

OVUAC prohibition

The offense of OVI applies to any person who operates a vehicle, streetcar, or trackless trolley in Ohio. Because the legal drinking age in Ohio is 21 years, however, the law also contains a separate prohibition, the offense of OVUAC, that applies only to persons under 21 years of age. A person commits the offense of OVUAC if the person operates a vehicle, streetcar, or trackless trolley in Ohio while the person's blood, breath, or urine contains any of the following alcohol concentrations: (1) at least two-hundredths of 1%, but less than eight-hundredths of 1% by weight of alcohol in his or her whole blood, (2) at least three-hundredths of one per cent but less than ninety-six-thousandths of one per cent by weight of alcohol in his or her blood serum or plasma, (3) at least two-hundredths of one gram but less than eight-hundredths of one gram by weight of alcohol per 210 liters of his or her breath, or (4) at least twenty-eight one-thousandths of one gram but less than eleven-hundredths of one gram by weight of alcohol per 100 milliliters of his or her urine.

Pre-trial OVUAC sanctions

The main pre-trial sanction that may be imposed upon a person who is arrested for OVUAC is an ALS suspension of the person's driver's license or permit, discussed below

in "***Pre-trial sanctions for OVI, OVUAC, and municipal OVI.***"

Post-conviction OVUAC sanctions

The law provides several types of sanctions for OVUAC that may be, or in certain cases must be, imposed by the court that sentences a person who has been convicted of or pleads guilty to the offense. The offense is punishable as follows:

(1) If, within one year of the offense, the offender previously has not been convicted of OVI, OVUAC, municipal OVI, or an "equivalent offense" (defined in R.C. 4511.181), the offender is guilty of a misdemeanor of the fourth degree, and the court must impose a Class 6 judicial suspension (a definite period of three months to two years) of the offender's driver's license or permit. The court has discretion in deciding the sentence to impose for a misdemeanor of the fourth degree—among the possible sanctions are a jail term of up to 30 days or a fine of up to \$250. After the first 60 days of the suspension, the court may grant the offender limited driving privileges during the suspension period in specified circumstances.

(2) If, within one year of the offense, the offender previously has been convicted of one or more offenses described above in (1), the offender is guilty of a misdemeanor of the third degree, and the court must impose a Class 4 judicial suspension (a definite period of one to five years) of the offender's driver's license or

Recognizing that the legal drinking age in Ohio is 21, a separate offense, OVUAC, consists of a prohibition that applies only to persons under that age and prescribes an "alcohol-related prohibited concentration" that is lower than the "alcohol-related prohibited concentrations" included in OVI.

The post-conviction sanctions for OVUAC include required driver's license suspensions, authorized incarceration and fines, and the assessment of points against the offender's driver's license.



permit. The court has discretion in deciding the sentence to impose for a misdemeanor of the third degree—among the possible sanctions are a jail term of up to 60 days or a fine of up to \$500. After the first 60 days of the suspension, the court may grant the offender limited driving privileges during the suspension period in specified circumstances.

(3) If the offender also is convicted of a specification that charges that, within 20 years of the offense, the offender previously has been convicted of or pleaded guilty to five or more offenses described above in (1) and if the court imposes a jail term on the offender for the OVUAC offense, the court also must impose upon the offender an additional jail term of up to six months.

In addition, a person who is convicted of OVUAC or a violation of an equivalent municipal ordinance is assessed four points against his or her driver's license.

Municipal OVI

A municipal corporation that enacts a municipal OVI provision specifies the sanctions to be imposed on a person who is convicted of or pleads guilty to a violation of the provision. Usually, the sanctions provided are similar to the sanctions the General Assembly has provided for OVI and OVUAC violations. State law addresses sanctions for violations of municipal OVI provisions in limited manners.

Pre-trial municipal OVI sanctions under state law

The main pre-trial sanction that may be imposed upon a person who is arrested for municipal OVI is an ALS suspension of the person's driver's license or permit, discussed below in "***Pre-trial sanctions for OVI, OVUAC, and municipal OVI.***"

Post-conviction municipal OVI sanctions under state law

The General Assembly has enacted very few provisions that address sanctions for persons who are convicted of or plead guilty to municipal OVI. Under one provision, the court imposing a sentence upon an offender for any municipal OVI violation must impose a suspension of the offender's driver's license or permit that is equivalent in length to the suspension required for an OVI or OVUAC violation. Another provision specifies that \$25 of any fine imposed for a municipal OVI violation must be deposited into a specified municipal or county indigent drivers alcohol treatment fund; those funds also contain portions of the mandatory fines imposed upon persons who are convicted of or plead guilty to OVI.

A third provision specifies that, if a person is convicted of or pleads guilty to municipal OVI, if the vehicle the offender was operating at the time of the offense is registered in the offender's name, and if, within six years of the current offense, the offender has been convicted of or

The post-conviction sanctions that state law provides for municipal OVI violations include required or authorized fines, driver's license suspensions, vehicle immobilizations or forfeitures, and the assessment of points against the offender's driver's license.



pleaded guilty to one or more offenses of OVI, OVUAC, municipal OVI, or an “equivalent offense,” the court in addition to and independent of any sentence that it imposes upon the offender, must do whichever of the following is applicable: (1) except as otherwise described in the next clause, if, within six years of the current offense, the offender has been convicted of or pleaded guilty to one offense of OVI, OVUAC, municipal OVI, or an “equivalent offense,” the court must order the immobilization for 90 days of that vehicle and the impoundment for 90 days of the license plates of that vehicle, and (2) if, within six years of the current offense, the offender has been convicted of or pleaded guilty to two or more offenses described in the preceding clause, or if the offender previously has been convicted of or pleaded guilty to one felony OVI offense, the court must order the criminal forfeiture to the state of that vehicle.

An offender who is convicted of a violation of a municipal ordinance that is equivalent to OVI is assessed six points against his or her driver’s license and a person who is convicted of a violation of a municipal ordinance that is equivalent to OVUAC is assessed four points against his or her license.

Pre-trial sanctions for OVI, OVUAC, and municipal OVI

Background

The main pre-trial sanction that may be imposed upon a person who is arrested for OVI, OVUAC, or municipal OVI is the administrative suspension of the person’s driver’s license or permit, which is known as an “Administrative License Suspension” or “ALS.” Any person who operates a vehicle, streetcar, or trackless trolley in Ohio is deemed to have given consent to a chemical test of the person’s whole blood, blood serum or plasma, breath, or urine to determine its alcohol, drug, controlled substance, controlled substance metabolite, or combination content if arrested for OVI, OVUAC, or municipal OVI (hereafter “chemical test”).

If a law enforcement officer arrests a person and charges the person with OVI, OVUAC, or municipal OVI, the officer may ask the person to submit to a “chemical test.” Before asking the arrested person to submit to a “chemical test,” unless the person is a repeat offender of the type described below in “***Special procedure for certain repeat offenders***” under “***Refusal to submit to a chemical test***,” the officer must inform the person of the consequences of refusing to submit

The main pre-trial sanction for a person arrested for OVI, OVUAC, and municipal OVI is an Administrative License Suspension (ALS) of the person’s driver’s license; another is the seizure of the vehicle being operated by the person.



to the test and of the consequences of submitting to the test and being found to have a standard-level or a high-level prohibited concentration of alcohol, a specified controlled substance, or a metabolite of a specified controlled substance in the person's whole blood, blood serum or plasma, breath, or urine.

Another pretrial sanction that may be imposed in certain cases is the seizure of the vehicle being operated by a person arrested for OVI or municipal OVI if the vehicle is registered in the person's name and the vehicle would be subject to immobilization or forfeiture if the person is convicted of or pleads guilty to the offense.

Refusal to submit to a chemical test

Procedure in general, and ALS refusal suspension. A person who is not a repeat offender of the type described below in "***Special procedure for certain repeat offenders***" and is arrested for OVI, OVUAC, or municipal OVI may refuse to submit to a "chemical test." Upon refusal, no test is administered, the person is subject to the ALS driver's license or permit suspension sanction described in the next paragraph, and the arresting officer seizes the person's license or permit and, on behalf of the Registrar, serves a notice on the person that the person's license or permit is suspended immediately. The person may appeal the suspension at the person's initial appearance in court or within 30 days of that initial appearance. The initial

appearance must be held not later than five days after the arrest. The person still is subject to other penalties for the offense if the person is convicted of or pleads guilty to the underlying OVI, OVUAC, or municipal OVI charge.

A person who refuses to submit to a "chemical test" under the procedure described in the preceding paragraph is subject to the following ALS suspension of the person's driver's license or permit:

(1) If the person, within six years of the date on which the person refused to consent to the test, had not refused a previous request to consent to a test and had not been convicted of or pleaded guilty to OVI, OVUAC, municipal OVI, or an "equivalent offense," a Class C suspension (a period of one year);

(2) If the person, within six years of the date on which the person refused to consent to the test, had refused one previous request or had been convicted of or pleaded guilty to one offense described above in (1), a Class B suspension (a period of two years);

(3) If the person, within six years of the date on which the person refused to consent to the test, had refused two previous requests, had been convicted of or pleaded guilty to two offenses described above in (1), or had refused one previous request and also had been convicted of or pleaded guilty to one offense described above in (1) not related to the refusal, a Class A suspension (a period of three years);

If a person is arrested for OVI, OVUAC, or municipal OVI, is asked to submit to a chemical test of a specified bodily substance, refuses to submit to the test, and is not in a specified category of repeat offenders, no test is given, but the person's driver's license is seized and suspended immediately under an ALS "refusal" suspension.



(4) If the person, within six years of the date on which the person refused to consent to the test, had refused three or more previous requests, had been convicted of or pleaded guilty to three or more offenses described above in (1), or had refused a number of previous requests and also had been convicted of or pleaded guilty to a number of offenses described above in (1) that cumulatively total three or more such refusals, convictions, and guilty pleas, a period of five years.

After the expiration of a specified period of the ALS suspension, a court may grant the person limited driving privileges during the suspension period in specified circumstances. If a court grants a person limited driving privileges, the court must in certain cases and may in other cases impose conditions upon the person's exercise of the privileges. The conditions include the use of ignition interlock devices, immobilizing or disabling devices including those that monitor the offender's alcohol consumption, continuous alcohol monitoring devices, and prohibitions against the consumption of alcohol.

Special procedure for certain repeat offenders. If a person is arrested for OVI, OVUAC, or municipal OVI and previously has been convicted of or pleaded guilty to two, three, or four offenses of OVI, OVUAC, municipal OVI, or other "equivalent offenses" within six years of the offense, previously has been convicted of or pleaded guilty to five or more such offenses within

20 years of the offense, or previously has been convicted of or pleaded guilty to felony OVI, the arresting law enforcement officer must request the person to submit, and the person must submit, to a "chemical test." The officer is not required to advise the person of the consequences of taking or refusing to take a test, but the officer must advise the person that, if the person refuses to take a "chemical test," the officer may employ whatever reasonable means are necessary to ensure that the person submits to a test of the person's whole blood or blood serum or plasma. If a person refuses to submit to the "chemical test," the officer may employ whatever reasonable means are necessary to ensure that the person submits to a test of the person's whole blood or blood serum or plasma. A law enforcement officer who ensures that the person submits to a chemical test of the person's whole blood or blood serum or plasma is immune from criminal and civil liability based upon a claim for assault and battery or any other claim for the acts unless the officer so acted with malicious purpose, in bad faith, or in a wanton or reckless manner. In succeeding parts of this brief, this procedure is referred to as the "repeat offender no-refusal procedure." A person who submits to a "chemical test" under this procedure and who is found to have a prohibited concentration of alcohol, a specified controlled substance, or a metabolite of a specified controlled substance in the person's whole blood, blood serum or plasma, breath, or urine is

If a person with a specified number of prior convictions is arrested for OVI, OVUAC, or municipal OVI and refuses to submit to a chemical test of a specified bodily substance, the arresting officer may employ whatever reasonable means are necessary to ensure that the person submits to a blood test.



If a person is arrested for OVI, OVUAC, or municipal OVI, is asked to submit to a chemical test of a specified bodily substance, and submits to the test, and if the person has a prohibited concentration of alcohol, a specified controlled substance, or a metabolite of a specified controlled substance in the tested bodily substance, the person's driver's license is seized and suspended immediately under an ALS "prohibited concentration" suspension.

subject to the ALS driver's license or permit suspension described below in "**Submission to a chemical test.**" The person also is subject to other penalties if the person is convicted of or pleads guilty to the underlying OVI, OVUAC, or municipal OVI charge.

Submission to a chemical test

If a person is arrested and charged with OVI, OVUAC, or municipal OVI, submits to a "chemical test" upon request by a law enforcement officer, and is found not to have a prohibited concentration of alcohol, a specified controlled substance, or a metabolite of a specified controlled substance in the person's whole blood, blood serum or plasma, breath, or urine, the person cannot be charged with a *per se* OVI violation but can be charged with OVI based on a violation of the OVI "under the influence" prohibition. In such a case, however, the securing of a conviction generally is more difficult.

If the arrested person submits to the "chemical test" and is found to have a prohibited concentration of alcohol, a specified controlled substance, or a metabolite of a specified controlled substance in the person's whole blood, blood serum or plasma, breath, or urine, the person is subject to an ALS driver's license or permit suspension sanction, and the arresting officer seizes the person's license or permit and, on behalf of the Registrar, serves a notice on the person that the person's

driver's license or permit is suspended immediately. The person may appeal the suspension at the person's initial appearance in court or within 30 days of that initial appearance. The initial appearance must be held not later than five days after the arrest. The person also is subject to other penalties if the person is convicted of or pleads guilty to the underlying OVI, OVUAC, or municipal OVI charge.

A person who submits to a chemical test and is found to have a prohibited concentration of alcohol, a specified controlled substance, or a metabolite of a specified controlled substance in the person's whole blood, blood serum or plasma, breath, or urine is subject to the following suspension of the person's driver's license or permit:

(1) If, within six years of the date the test was conducted, the arrested person had not been convicted of or pleaded guilty to OVI, OVUAC, municipal OVI, or an "equivalent offense," a Class E suspension (a period of three months);

(2) If, within six years of the date the test was conducted, the arrested person had been convicted of or pleaded guilty to one offense described above in (1), a Class C suspension (a period of one year);

(3) If, within six years of the date the test was conducted, the arrested person had been convicted of or pleaded guilty to two offenses described above in (1), a Class B suspension (a period of two years);

(4) If, within six years of the date the test was conducted, the arrested



person had been convicted of or pleaded guilty to more than two more offenses described above in paragraph (1), a Class A suspension (a period of three years).

After the expiration of a specified period of the ALS suspension, a court may grant the person limited driving privileges during the suspension period in specified circumstances. If a court grants a person limited driving privileges, the court must in certain cases and may in other cases impose conditions upon the offender's exercise of the privileges. The conditions include the use of ignition interlock devices, immobilizing or disabling devices including those that monitor the offender's alcohol consumption, continuous alcohol monitoring devices, and prohibitions against the consumption of alcohol.

Initial appearance; appeal of ALS suspension; imposition of pre-trial judicial suspension

The initial appearance in court of a person who is arrested for OVI, OVUAC, or municipal OVI must be held within five days of the date on which the person is arrested for the offense. If an ALS suspension has been imposed upon the arrested person, the person may appeal the suspension at the initial appearance or within the period ending 30 days after the person's initial appearance. The appeal does not stay the suspension, and a continuance of the appeal may be granted. If the court upon such an appeal determines that all of a

number of specified conditions have been met, the suspension must be upheld and continued until the case is tried in court. Those conditions are that: (1) the officer had reasonable ground for the arrest, requested the person to submit to a chemical test, and either advised the person of the consequences of refusal or, if the person is subject to the repeat offender no-refusal procedure, advised the person that the officer could employ the reasonable means necessary to ensure that the person submitted to the test, whichever is applicable, and (2) that the person refused to submit to the test if the suspension is a refusal-based ALS suspension or the person submitted to the test and the results showed a prohibited concentration of alcohol, a specified controlled substance, or a metabolite of a specified controlled substance in the person's blood, blood serum or plasma, breath, or urine if the suspension is a prohibited concentration-based ALS suspension. If the court determines that one or more of the conditions have not been met, the court must terminate the suspension. If the court terminates the ALS suspension, at any time prior to the adjudication on the merits of the charge resulting from the arrest, the court may impose a new suspension if it determines that the person's continued driving will be a threat to public safety, and the suspension remains in effect until the underlying OVI, OVUAC, or municipal OVI charge is adjudicated on the merits.



Except for the ALS provisions, a person under 18 years of age who commits OVI, OVUAC, or municipal OVI is subject to sanctions in a juvenile court, as a “juvenile traffic offender,” that are distinct from the sanctions for a person who is convicted of any of those offenses.

If an ALS suspension has not been imposed upon the arrested person, at any time prior to the adjudication on the merits of the charge resulting from the arrest, the court may suspend the person’s driver’s license or permit if it determines that the person’s continued driving will be a threat to public safety, and the suspension remains in effect until the underlying OVI, OVUAC, or municipal OVI charge is adjudicated on the merits.

Juvenile traffic offenders

All of the ALS suspension provisions described above apply to any person, including a person under 18 years of age (a “child”), who is arrested and charged with OVI, OVUAC, or municipal OVI and either refuses to take a chemical test or takes the test and is found to have a prohibited concentration of alcohol, a specified controlled substance, or a metabolite of a specified controlled substance in the person’s whole blood, blood serum or plasma, breath, or urine. However, juvenile courts initially have exclusive jurisdiction over violations of criminal prohibitions that are committed by children (i.e., acts that would be criminal offenses if committed by an adult), special dispositional sanctions are provided for children found by a juvenile court to have violated any of the prohibitions, and the criminal sanctions that apply in a case involving a person 18 years of

age or older who is convicted of or pleads guilty to OVI or OVUAC and that are described above do not apply in juvenile courts. In juvenile courts, a child who violates any state, federal, or local traffic law, ordinance, or regulation (other than a noncriminal parking infraction), including the statutes that contain the OVI and OVUAC prohibitions, is a juvenile traffic offender (“JTO”).

A juvenile court that adjudicates a child a JTO may make any of the following dispositional orders: (1) impose costs plus one or more financial sanctions in accordance with a specified provision of law (relevant to OVI and OVUAC, the financial sanctions include fines not exceeding: \$50 if the offense would be an unclassified misdemeanor if committed by an adult; \$100 if it would be a fourth degree misdemeanor; \$150 if it would be a third degree misdemeanor; \$250 if it would be a first degree misdemeanor; \$300 if it would be a fourth degree felony; and \$400 if it would be a third degree felony), (2) suspend the child’s driver’s license or permit, or the registration of all motor vehicles registered in the child’s name, for a definite period not exceeding two years, (3) place the child on community control, (4) if the juvenile traffic offense would not be a minor misdemeanor if committed by an adult and could not be disposed of by the court’s juvenile traffic violations bureau, require the child to make restitution, (5) if the juvenile traffic




offense would be the offense of OVI if committed by an adult or is a violation of a comparable municipal ordinance, commit the child for not longer than five days to the temporary custody of a juvenile detention facility or district detention facility or to the temporary custody of an authorized school, camp, institution, or other facility for children operated by a county, district, or private agency or organization in Ohio, or (6) if, after making any of the above dispositions, the court finds that the child has failed to comply with the court's orders and the child's operation of a motor vehicle constitutes a danger to the child and to others, make certain specified orders that are available for disposition of delinquent children.

If a child's juvenile traffic offense would be the offense of OVI or OVUAC if committed by an adult, in addition to any dispositional order made under the above provisions, the court must impose a Class 6 judicial suspension (a definite period of three months to two years) of the child's driver's license or permit. The court may terminate the suspension if the child completes a drug abuse or alcohol abuse education, intervention, or treatment program.

Also, if the child's juvenile traffic offense would be OVI, OVUAC, or municipal OVI if committed by an adult, the Registrar must impose a Class D administrative suspension (a period of six months) of the child's driver's license or permit. A court may grant the child limited driving privileges during the suspension period in specified circumstances.

OVI offenses committed in another state by an Ohio resident

If an Ohio resident is convicted of or pleads guilty to a violation of a statute of any other state or a municipal ordinance of a municipal corporation located in another state that is substantially similar to OVI or OVUAC under Ohio law and the Registrar receives a report from that state indicating this fact, the Registrar must impose a Class D administrative suspension (a period of six months) of the Ohio resident's driver's license or permit. The Ohio resident may appeal the suspension, and a court may grant the Ohio resident limited driving privileges during the suspension period in specified circumstances. 

If an Ohio resident is convicted in another state of a violation that is substantially similar to OVI or OVUAC and the Registrar of Motor Vehicles receives a report indicating that fact, the Registrar suspends the person's driver's license.

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9th Floor
Vern Riffe Center
Columbus, Ohio
614/466-3615

Director
Mark C. Flanders

Contributing Author
Dennis M. Papp,
LSC Staff Attorney

Reviewer
Richard Lee Merkel,
LSC Division Chief

Layout & Design
Jeanette Cupp