

# OHIO IMPAIRED DRIVING LAW

## TYPES OF OFFENSES

➤ **Operation under the influence of alcohol, drug of abuse or both. RC 4511.19(A)(1)(a).**

➤ **Operation with concentration of alcohol specified below. RC 4511.19(A)(1)(b)-(i).**

Alcohol Level	Whole Blood		Blood Serum or Plasma		Breath		Urine	
Low Test	≥ .08%	§(A)(1)(b)	≥ .096%	§(A)(1)(c)	≥ .08g	§(A)(1)(d)	≥ .11g	§(A)(1)(e)
	< .17%		< .204%		< .17g		< .238g	
High Test	≥ .17%	§(A)(1)(f)	≥ .204%	§(A)(1)(g)	≥ .17g	§(A)(1)(h)	≥ .238g	§(A)(1)(i)

➤ **Operation with concentration of controlled substance specified below. RC 4511.19(A)(1)(j)(i)-(x).**

Controlled Substance	Urine	Whole Blood, Blood Serum or Plasma	Section No.
Amphetamine	≥ 500 ng	≥ 100 ng	(A)(1)(j)(i)
Cocaine	≥ 150 ng	≥ 50 ng	(A)(1)(j)(ii)
Cocaine Metabolite	≥ 150 ng	≥ 50 ng	(A)(1)(j)(iii)
Heroin	≥ 2000 ng	≥ 50 ng	(A)(1)(j)(iv)
Heroin Metabolite (6-monoacetyl morphine)	≥ 10 ng	≥ 10 ng	(A)(1)(j)(v)
L.S.D.	≥ 25 ng	≥ 10 ng	(A)(1)(j)(vi)
Marihuana	≥ 10 ng	≥ 2 ng	(A)(1)(j)(vii)
Marihuana Metabolite and under the influence	≥ 15 ng	≥ 5 ng	(A)(1)(j)(viii)(I)
Marihuana Metabolite	≥ 35 ng	≥ 50 ng	(A)(1)(j)(viii)(II)
Methamphetamine	≥ 500 ng	≥ 100 ng	(A)(1)(j)(ix)
Phencyclidine	≥ 25 ng	≥ 10 ng	(A)(1)(j)(x)
Salvia divinorum and salvinorin A	Pending State Board of Pharmacy rule	Pending State Board of Pharmacy rule	(A)(1)(j)(xi)

➤ **Operation under the influence of alcohol, drug of abuse or both, with prior OVI conviction in 20 years, and with current refusal of chemical test or tests. RC 4511.19(A)(2).**

➤ **Operation by person under age 21 with concentration of alcohol specified below. RC 4511.19(B)(1)-(4).**

Whole Blood		Blood Serum or Plasma		Breath		Urine	
≥ .02%	§(B)(1)	≥ .03%	§(B)(2)	≥ .02g	§(B)(3)	≥ .028g	§(B)(4)
< .08%		< .096%		< .08g		< .11g	

➤ **Having physical control while under the influence of alcohol, drug of abuse or both, or with concentration of alcohol or controlled substance equal to or greater than §(A)(1)(b)-(e) or (j) amounts. RC 4511.194(B)(1)-(3).**

## ADMINISTRATIVE LICENSE SUSPENSIONS

### Refusal of Chemical Test RC 4511.191(B)

No. of Refusal/ Offense in 6 Years	Type and Length <sup>1</sup> of Suspension	Driving Privileges <sup>2&amp;3</sup>	Restricted Plates as Condition for Privileges	Interlock as Condition for Privileges
1 <sup>st</sup>	Class C (1 year)	After 30 days	Optional	Optional
2 <sup>nd</sup>	Class B (2 years)	After 90 days	Optional	Optional
3 <sup>rd</sup>	Class A (3 years)	After 1 year	Optional	Optional
4 <sup>th</sup> or more	5 years	After 3 years	Optional	Optional

### Failed<sup>4</sup> Chemical Test RC 4511.191(C)

No. of Offense in 6 Years	Type and Length <sup>5</sup> of Suspension	Driving Privileges <sup>6</sup>	Restricted Plates as Condition for Privileges	Interlock as Condition for Privileges
1 <sup>st</sup>	Class E (90 days)	After 15 days	Optional	Optional
2 <sup>nd</sup>	Class C (1 year)	After 45 days	Optional	Optional
3 <sup>rd</sup>	Class B (2 years)	After 180 days	Optional	Required if alcohol- related, optional if drug.
4 <sup>th</sup> or more	Class A (3 years)	After 3 years	Optional	Required if alcohol- related, optional if drug.

<sup>1</sup> Refusal suspension terminates upon guilty or no contest plea resulting in conviction, and time served is to be credited against judicial suspension. RC 4511.191(B)(2). However, a subsequent finding of not guilty does not affect the suspension. RC 4511.191(D)(1).

<sup>2</sup> No privileges may be granted to offender with refusal who, within the preceding six years, has had three or more test refusals. RC 4510.13(A)(3).

<sup>3</sup> Refusal of test in a offense in commercial vehicle results in a one-year commercial driver's (CDL) license disqualification while a second anytime results in lifetime CDL disqualification. RC 4506.17(D),(E). No privileges may be granted. RC 4510.13(A)(4). Also, CDL operators are subject to lower alcohol and controlled substance levels plus separate offenses under RC Chap. 4506.

<sup>4</sup> Failed chemical test result is a concentration of alcohol or controlled substance equal to or greater than RC 4511.19(A)(1)(b)-(e) or (j) amounts. RC 4511.191(C)(1).

<sup>5</sup> Suspension for failing test terminates upon guilty or no contest plea resulting in conviction, and time served is to be credited against any judicial suspension. RC 4511.191(C)(2). Under RC 4511.191(D)(1), any subsequent finding of not guilty does not affect the suspension. But note RC 4511.197(D), stating that if the suspension is continued upon appeal, a subsequent finding of not guilty terminates the suspension.

<sup>6</sup> No privileges may be granted to offender with failed test who, within the preceding six years, has had three or more convictions or guilty pleas. RC 4510.13(A)(3).

### Appeal RC 4511.197

An administrative license suspension may be appealed at the initial appearance (5 day hearing), or within 30 days of the same.

The scope of appeal is limited to determining whether one or more of the following conditions have **not** been met:

- Whether the officer had reasonable ground to believe the person was OVI, OVUAC, or in physical control in violation of statute or municipal ordinance, and whether the person was in fact placed under arrest. RC 4511.197(C)(1).
- Whether the officer requested the person to submit to a chemical test or tests. RC 4511.197(C)(2).
- Whether the officer informed the person of consequences of taking or refusing test or tests; or for repeat OVI offender that would be required to be sentenced under RC 4511.19(G)(1)(c),(d), or (e), that in event of test refusal officer could use whatever reasonable means were necessary to ensure the person submitted to a blood test. RC 4511.197(C)(3).
- Whichever of the following applies:
  - if a test refusal suspension was imposed, whether the person refused to submit to test or tests requested by the officer, or
  - if a failed test suspension was imposed, whether at the time of the offense, the bodily substance tested contained a prohibited concentration of alcohol or a listed controlled substance or metabolite. RC 4511.197(C)(4).

## PENALTIES

### OPERATING VEHICLE UNDER THE INFLUENCE RC 4511.19(A),(G) - 6 POINTS

No. and Type of Offense	Degree of Offense	Incarceration	Fines	Treatment	License Suspension	Driving Privileges <sup>1&amp;2</sup>	Restricted Plates/ Interlock	Immobilization/ Forfeiture
1 <sup>st</sup> in 6 years [simple OVI, low test or drug]	M-1	3 days jail or DIP. <sup>3</sup> Up to 6 months. <sup>4</sup>	\$375 - \$1,075	Optional	Class 5 (6 months to 3 years)	After 15 days	Both optional	No
1 <sup>st</sup> in 6 years and either: [a] high test, or [b] refusal with prior in 20 years	M-1	6 days jail or 3 days jail and 3 days DIP. <sup>3</sup> Up to 6 months. <sup>4</sup>	\$375 - \$1,075	Optional	Class 5 (6 months to 3 years)	After 15 days	Plates required for high-end. Interlock optional.	No
2 <sup>nd</sup> in 6 years [simple OVI, low test or drug]	M-1	10 days jail or 5 days jail and 18 days HAEM and/or CAM. <sup>5</sup> Up to 6 months. <sup>4</sup>	\$525 - \$1,625	Alcohol/drug assessment and recommended treatment mandatory.	Class 4 (1 to 5 years)	After 45 days	Plates required. Interlock required if alcohol-related, optional if drug.	90 days immobilization if registered to Δ <sup>6</sup>
2 <sup>nd</sup> in 6 years and either: [a] high test, or [b] refusal with prior in 20 years	M-1	20 days jail or 10 days jail and 36 days HAEM and/or CAM. <sup>5</sup> Up to 6 months. <sup>4</sup>	\$525 - \$1,625	Alcohol/drug assessment and recommended treatment mandatory.	Class 4 (1 to 5 years)	After 45 days	Plates required. Interlock required if alcohol-related, optional if drug.	90 days immobilization if registered to Δ <sup>6</sup>
3 <sup>rd</sup> in 6 years [simple OVI, low test or drug]	Unclassified misdemeanor	30 days jail or 15 days jail and 55 days HAEM and/or CAM. <sup>5</sup> Up to 1 year. <sup>4</sup>	\$850 - \$2,750	Alcohol/drug addiction program mandatory.	Class 3 (2 to 10 years) <sup>7</sup>	After 180 days	Plates required. Interlock required if alcohol-related, optional if drug.	Forfeiture if registered to Δ <sup>8</sup>
3 <sup>rd</sup> in 6 years and either: [a] high test, or [b] refusal with prior in 20 years	Unclassified Misdemeanor	60 days jail or 30 days jail and 110 days HAEM and/or CAM. <sup>5</sup> Up to 1 year. <sup>4</sup>	\$850 - \$2,750	Alcohol/drug addiction program mandatory.	Class 3 (2 to 10 years) <sup>7</sup>	After 180 days	Plates required. Interlock required if alcohol-related, optional if drug.	Forfeiture if registered to Δ <sup>8</sup>

Either: [a] 4 <sup>th</sup> or 5 <sup>th</sup> in 6 years, or [b] 6 <sup>th</sup> in 20 years [simple OVI, low test or drug]	F-4	60 days local incarceration, up to 1 year; or 60 days prison, with option of additional 6 to 30 months. <sup>9</sup>	\$1,350 - \$10,500	Alcohol/drug addiction program mandatory.	Class 2 (3 years to life)	After 3 years	Plates required. Interlock required if alcohol-related, optional if drug.	Forfeiture if registered to Δ <sup>8</sup>
Either: [a] 4 <sup>th</sup> or 5 <sup>th</sup> in 6 years, or [b] 6 <sup>th</sup> in 20 years [and high test or refusal]	F-4	120 days local incarceration, up to 1 year; or 120 days prison with option of additional 6 to 30 months. <sup>9</sup>	\$1,350 - \$10,500	Alcohol/drug addiction program mandatory.	Class 2 (3 years to life)	After 3 years	Plates required. Interlock required if alcohol-related, optional if drug.	Forfeiture if registered to Δ <sup>8</sup>
2 <sup>nd</sup> felony lifetime [simple OVI, low test or drug]	F-3	60 days prison. Up to 5 years. <sup>9</sup>	\$1,350 - \$10,500	Alcohol/drug addiction program mandatory.	Class 2 (3 years to life)	After 3 years	Plates required. Interlock required if alcohol-related, optional if drug.	Forfeiture if registered to Δ <sup>8</sup>
2 <sup>nd</sup> felony lifetime, and either: [a] high test, or [b] refusal	F-3	120 days prison. Up to 5 years. <sup>9</sup>	\$1,350 - \$10,500	Alcohol/drug addiction program mandatory.	Class 2 (3 years to life)	After 3 years	Plates required. Interlock required if alcohol-related, optional if drug.	Forfeiture if registered to Δ <sup>8</sup>
1 <sup>st</sup> or 2 <sup>nd</sup> felony lifetime with RC 2941.1413 specification	F-4 (1 <sup>st</sup> felony) F-3 (2 <sup>nd</sup> felony)	F-3 penalties set forth in boxes above, and 1, 2, 3, 4, or 5 years prison consecutive to same. <sup>9</sup>	\$1,350 - \$10,500	Alcohol/drug addiction program mandatory.	Class 2 (3 years to life)	After 3 years	Plates required. Interlock required if alcohol-related, optional if drug.	Forfeiture if registered to Δ <sup>8</sup>

<sup>1</sup> No privileges may be granted on suspension imposed on offender who, within the preceding six years, has had three or more convictions or guilty pleas. RC 4510.13(A)(3).

<sup>2</sup> First Ohio Revised Code OVI conviction results in one-year commercial driver's license (CDL) disqualification and second anytime results in lifetime disqualification, regardless of vehicle involved. RC 4506.16(D). Also, CDL operators are subject to lower alcohol and controlled substance levels plus separate offenses under RC Chap. 4506.

<sup>3</sup> A "DIP" is a driver intervention program certified under RC 3793.10 provisions. See RC 4511.191(G)(1)(a).

<sup>4</sup> A court located within a county served by board establishing an alternative sentencing center may sentence an "eligible offender" to center for an OVI and/or a driving under an OVI suspension. RC 307.932.

<sup>5</sup> "HAEM" is house arrest with electronic monitoring. "CAM" is continuous alcohol monitoring. Within 60 days, court must issue finding of lack of jail space. RC 4511.19(G)(3).

<sup>6</sup> Waiver may be granted, under RC 4503.235 conditions, for "family or household member" if completely dependent on vehicle, and immobilization would be undue hardship.

<sup>7</sup> But court has authority to reduce the minimum period of a Class 3 suspension from two years to one year. RC 4510.13(A)(2)(b).

<sup>8</sup> If vehicle forfeiture is required and title is assigned/transferred, offender may be fined value of vehicle per national auto dealers' association publications. RC 4503.234(E).

<sup>9</sup> Pursuant to RC 2967.19, court has limited power to order early release for felony OVI offender serving prison term imposed under RC 2929.13(G)(2).

### OPERATING VEHICLE AFTER UNDERAGE ALCOHOL CONSUMPTION RC 4511.19(B),(H) - 4 POINTS

No. of Offense	Degree of Offense	Incarceration	Fines	Treatment	License Suspension	Driving Privileges	Restricted Plates/ Interlock	Immobilization/ Forfeiture
1 <sup>st</sup> in 1 year	M-4	0-30 days jail	\$0 - \$250	Optional	Class 6 (90 days to 2 years)	After 60 days	Optional	No
2 <sup>nd</sup> or more in 1 year	M-3	0-60 days jail	\$0 - \$500	Optional	Class 4 (1 to 5 years)	After 60 days	Optional	No

### PHYSICAL CONTROL WHILE UNDER THE INFLUENCE RC 4511.194 - 0 POINTS

No. of Offense	Degree of Offense	Incarceration	Fines	Treatment	License Suspension	Driving Privileges	Restricted Plates/ Interlock	Immobilization/ Forfeiture
Any	M-1	0-180 days jail	\$0 - \$1,000	Optional	Class 7 optional (up to 1 year)	No restrictions	Optional	No

**Judge Jennifer P. Weiler, Garfield Heights Municipal Court**

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