



# Members Brief

An informational brief prepared by the LSC staff for members and staff of the Ohio General Assembly

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## Impaired Driving in Ohio

This brief discusses Ohio’s prohibition against and penalties for operating a vehicle while impaired or under the influence of alcohol, a drug of abuse, or a metabolite of that drug.

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### Introduction

Ohio law prohibits people of all ages from operating a vehicle in the following manners:

- While under the influence of alcohol, a drug of abuse, or both; or
- With a prohibited concentration of alcohol, a drug of abuse, or a metabolite<sup>1</sup> of that drug.

This is generally known as “operating a vehicle while impaired” (OVI). This brief examines the following relevant laws: prohibited amounts of alcohol and drugs; the repeat offender refusal-related prohibition; submission to a chemical test of blood, breath, or urine; pretrial sanctions; and post-conviction sanctions. This brief also discusses operating a vehicle after underage alcohol consumption (OVUAC), juvenile traffic offenders, municipal OVI, and OVI offenses committed by Ohio residents in another state.

There are also related laws, not discussed here, that prohibit operating watercraft or aircraft while under the influence of alcohol or drugs.

## Offense of OVI

### Alcohol and drug prohibitions

Generally, a person commits an OVI offense when the person operates a vehicle, including a nonmotorized vehicle such as a bicycle, in the following manners:

- While under the influence of alcohol, a drug of abuse, or both (a “drug of abuse” includes not only the drugs listed below, but also other controlled substances);
- With a prohibited concentration of alcohol in the person’s breath, whole blood, blood serum or plasma, or urine;
- With a prohibited concentration of the following drugs of abuse in the person’s whole blood, blood serum or plasma, breath, or urine: amphetamine, cocaine, heroin, L.S.D., marijuana, methamphetamine, phencyclidine, salvia divinorum, or salvinorin A;
- With a prohibited concentration of metabolites of any of the following drugs of abuse in the person’s urine, whole blood, or blood serum or plasma: cocaine, heroin, or marijuana.<sup>2</sup>

Note that a person may violate the OVI law even if the person has less than a prohibited concentration of alcohol or drugs in the person’s system. That is, if the person is “under the influence” of alcohol or a drug of abuse, the person may be subject to penalties for OVI.

And, a person violates the OVI law and is subject to heightened penalties if the person operates a vehicle while under the influence; has had one or more OVI offenses within 20 years; is arrested for OVI; refuses to submit to a chemical test of the person’s blood, breath, or urine; and receives notice of the consequences of refusal from the arresting officer (repeat offender refusal).

### Prohibited concentrations; *per se* violations

A prohibited concentration is an amount specified by law that, if exceeded, automatically constitutes a violation of the law. This is called a *per se* violation. The most widely known *per se* violation is the “0.08 level” of alcohol in a person’s breath. An officer determines whether a person has a prohibited concentration of alcohol or drugs in the body through a “chemical test,” which tests a person’s whole blood, blood serum, plasma, or urine. This test also includes a breath test for alcohol, though breath tests do not currently test for drugs.

Table 1 provides the prohibited concentrations for alcohol. A high-level alcohol violation carries increased penalties. There are also prohibited concentrations of drugs and metabolite-related prohibited concentrations, which vary depending on the drug (these are detailed in R.C. 4511.19(A)(1)(j)).

**Table 1. Prohibited Concentrations of Alcohol, OVI**

Alcohol Level	Whole Blood	Blood Serum or Plasma	Breath	Urine
Standard level <sup>3</sup>	<ul style="list-style-type: none"> <li>▪ 0.08% to 0.17% by weight per unit volume</li> </ul>	<ul style="list-style-type: none"> <li>▪ 0.096% to 0.204% by weight per unit volume</li> </ul>	<ul style="list-style-type: none"> <li>▪ 0.08g to 0.17g per 210 liters</li> </ul>	<ul style="list-style-type: none"> <li>▪ 0.11g to 0.238g per 100ml</li> </ul>
High level <sup>4</sup>	<ul style="list-style-type: none"> <li>▪ 0.17% or more by weight per unit volume</li> </ul>	<ul style="list-style-type: none"> <li>▪ 0.204% or more by weight per unit volume</li> </ul>	<ul style="list-style-type: none"> <li>▪ 0.17g or more per 210 liters</li> </ul>	<ul style="list-style-type: none"> <li>▪ 0.238g or more per 100ml</li> </ul>

### **Repeat offender – refusal-related prohibition**

As indicated above, a person is subject to heightened OVI-related penalties when the person:

1. Has one or more OVI offenses within 20 years;
2. Operates a vehicle while under the influence;
3. Is arrested for OVI;
4. Receives notice of consequences of refusal from the arresting officer; and
5. Refuses to submit to a chemical test.

If the person is subsequently convicted of being under the influence, because 1 – 5 apply, the person is subject to post-conviction penalties typically reserved for a high-alcohol *per se* violation (in accordance with Table 3) *even though the person did not necessarily violate a per se high-alcohol concentration*.

## **Arrest and Pretrial Sanctions**

### **Arrest and chemical test**

If an officer has probable cause that a person is under the influence of alcohol, a drug of abuse, or a combination, the officer may arrest that person for violating OVI. Upon arrest, the officer must follow several procedures before obtaining a chemical test. The procedures vary depending on the number of prior offenses (OVI convictions or guilty pleas) and prior chemical test refusals the person has had within the last ten years. As above and throughout the brief, a “prior” offense includes OVI and other “equivalent offenses” (as defined in R.C. 4511.181).

Equivalent offenses include a municipal OVI offense, boating-while-impaired offense, certain vehicular homicide and assault offenses, and other specified offenses.

And, a person has two hours from the time of the alleged violation to submit to the chemical test. Otherwise, failure to submit within that timeframe constitutes a formal refusal to submit, and the person is subject to the penalties associated with a refusal.<sup>5</sup>

### **Administrative license suspension**

The main pretrial sanction imposed on a person arrested for OVI is an administrative license suspension (ALS) administered by the Registrar of Motor Vehicles. Different levels of ALS apply to different people, depending on whether a person refused or submitted to a chemical test, and the number of prior offenses or chemical test refusals. Generally, refusal leads to a more severe suspension than submission (when submission to a chemical test reveals a violation of a per se prohibition). The law does not provide for an ALS if a person submits and does not violate a per se prohibition.<sup>6</sup>

### **Vehicle seizure**

If a person is arrested for OVI and the vehicle is registered in the person's name, depending on the number of prior convictions, the person's vehicle may be seized. The officer must give the arrested person written notice that the vehicle and its license plates have been seized, and that the vehicle will either be kept by the officer's law enforcement agency, or will be immobilized until the person's initial court appearance.<sup>7</sup>

### **Procedures and consequences**

Table 2 sets forth the pretrial procedures and consequences associated with an OVI arrest. The more chemical test refusals and OVI-related offenses the arrested person has, the more severe the consequences. Specifically, the table shows:

- Whether an officer is required to read a form that informs the person about certain consequences of refusal;
- Whether an officer is required to advise a person that the officer may use whatever reasonable means necessary to obtain a chemical test; and
- The following consequences of refusal: level of ALS, length of hard suspension, and vehicle seizure (a "hard suspension" is the period of time during which a court cannot grant limited driving privileges; after the hard suspension passes, driving privileges are generally permitted).

**Table 2. Pretrial Procedures and Consequences**

Prior Offenses or Chemical Test Refusals Within Ten Years	Officer's Requirements	Submission and Violation of <i>Per Se</i> Prohibited Concentration	Refusal and Consequences
0 <sup>8</sup>	<ul style="list-style-type: none"> <li>Required to read a form that informs the person about certain consequences of refusal.</li> </ul>	<ul style="list-style-type: none"> <li>ALS: Class E suspension (3 months); hard suspension first 15 days.</li> </ul>	<ul style="list-style-type: none"> <li>ALS: Class C suspension (1 year); hard suspension first 30 days.</li> </ul>
1 <sup>9</sup>	<ul style="list-style-type: none"> <li>Required to read a form that informs the person about certain consequences of refusal.</li> </ul>	<ul style="list-style-type: none"> <li>ALS: Class C suspension (1 year); hard suspension first 45 days.</li> </ul>	<ul style="list-style-type: none"> <li>ALS: Class B suspension (2 years); hard suspension first 90 days.</li> <li>If the prior offense is an OVI conviction or guilty plea, vehicle seizure.</li> </ul>
2 <sup>10</sup>	<ul style="list-style-type: none"> <li>Required to advise that the officer may use whatever reasonable means necessary to obtain a chemical test.</li> </ul>	<ul style="list-style-type: none"> <li>ALS: Class B suspension (2 years); hard suspension first 180 days.</li> </ul>	<ul style="list-style-type: none"> <li>ALS: Class A suspension (3 years); hard suspension first year.</li> <li>If both prior offenses are OVI convictions or guilty pleas, and the person refuses, the officer may employ whatever reasonable means necessary to obtain a chemical test, and is generally immune from criminal and civil liability.</li> <li>If both prior offenses are OVI convictions or guilty pleas, vehicle seizure.</li> </ul>
3+ <sup>11</sup>	<ul style="list-style-type: none"> <li>Required to advise that the officer may use whatever reasonable means necessary to obtain a chemical test.</li> </ul>	<ul style="list-style-type: none"> <li>ALS: Class A suspension (3 years); hard suspension 3 years.</li> </ul>	<ul style="list-style-type: none"> <li>ALS: 5 years; hard suspension first 3 years.</li> <li>If at least two prior offenses are OVI convictions or guilty pleas, and the person refuses, the officer may employ whatever reasonable means necessary to obtain a chemical test, and is generally</li> </ul>

Table 2. Pretrial Procedures and Consequences			
Prior Offenses or Chemical Test Refusals Within Ten Years	Officer's Requirements	Submission and Violation of <i>Per Se</i> Prohibited Concentration	Refusal and Consequences
			immune from criminal and civil liability. <ul style="list-style-type: none"> <li>▪ If at least two prior offenses are OVI convictions or guilty pleas, vehicle seizure.</li> </ul>

Note: If a person has one or more felony OVI convictions or guilty pleas, regardless of when those occurred, the person's vehicle will be seized.<sup>12</sup>

### Initial Court Appearance

A person's initial appearance in court must be held within five days from the date of arrest. The person may appeal the ALS at the initial appearance or within 30 days after the initial appearance.<sup>13</sup> To terminate the suspension, a person must demonstrate one of the following – otherwise, the court must uphold the suspension:

- The officer did not have reasonable grounds for the arrest;
- The officer did not request the person to submit to a chemical test;
- Whichever of the following applies:
  - For a person with zero or one prior offense, that the officer did not advise the person of the consequences of refusal; or
  - For a person with two or more prior offenses, that the officer did not advise the person that the officer could employ whatever reasonable means necessary to ensure that the person submit to the test;
- Whichever of the following applies:
  - The person did not refuse to submit to the test (if the suspension is a refusal-based ALS); or
  - The person submitted to the test and the results did not show a prohibited concentration of alcohol or drugs.<sup>14</sup>

The court may impose a new suspension, separate from the ALS, if: (1) no ALS was imposed, or (2) the court terminates the ALS because of one of the conditions above, but determines that the person's continued driving would be a threat to public safety.<sup>15</sup>

## Post-Conviction Sanctions

### Judicially imposed sanctions

- A court is either authorized or required to impose several types of sanctions for OVI. The sanctions vary depending on the offender's record of prior convictions or guilty pleas, whether a chemical test shows a high-alcohol level, and other circumstances. Table 3 sets forth the degree of the offense, general terms of incarceration and treatment, fines, license suspension, and vehicle immobilization or forfeiture. The following terms, briefly defined, are used in the tables:
- "CAMHA" means house arrest with continuous alcohol monitoring;
- "Criminal forfeiture" means that the vehicle used in the offense and registered in the offender's name will be disposed of – either to the law enforcement agency that employs the officer who seized the vehicle, or sold at auction;<sup>16</sup>
- "EMHA" means house arrest with electronic monitoring;
- "Felony" means a serious crime usually punishable by imprisonment for more than a year.<sup>17</sup>
- "HA" means house arrest;<sup>18</sup>
- "Hard suspension" means the period of time during which limited or unlimited driving privileges are *not* permitted; after the period of hard suspension passes, a court may allow limited driving privileges (or unlimited for first-time offenders);
- "Interlock device" means a device that connects a breath analyzer to a vehicle's ignition system and prevents the person from starting the vehicle unless the device determines that the alcohol in the person's breath is below a certain level;<sup>19</sup>
- "Misdemeanor" means a crime that is less serious than a felony, and is usually punishable by fine, penalty, forfeiture, or confinement in a place other than prison;<sup>20</sup>
- "Repeat offender refusal" means a person who has a prior OVI offense within 20 years and who refused a chemical test;<sup>21</sup>
- "Vehicle immobilization" means that the vehicle used in the offense and registered in the offender's name will be stored at a location determined by the court.<sup>22</sup>

Table 3. OVI Sanctions	
No Priors Within 10 Years: <u>First Degree Misdemeanor</u>	
Jail or Prison Term	Other Penalties
<p><b>Under the influence/standard alcohol/drugs<sup>23</sup></b></p> <ul style="list-style-type: none"> <li>▪ Jail term of 3 days (permissive additional term, cumulative term up to 6 months).                             <ul style="list-style-type: none"> <li>▫ Alternative: 3 days drivers’ intervention program or a combination of jail and a drivers’ intervention program for 3 days.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ Fine: \$375-\$1,075</li> <li>▪ License suspension of 1-3 years; hard suspension for first 15 days. Court may grant either:                             <ul style="list-style-type: none"> <li>▫ Limited driving privileges, interlock device optional;</li> <li>▫ Unlimited driving privileges, interlock device required.</li> </ul> </li> </ul> <p>(If unlimited, court must suspend any jail term and may reduce the suspension by half.)</p> <ul style="list-style-type: none"> <li>▪ Neither immobilization nor forfeiture.</li> <li>▪ Restricted plates required for high-alcohol, optional for all others.<sup>24</sup></li> <li>▪ Court may require treatment or education programs and any other community control conditions.</li> </ul>
<p><b>High alcohol/repeat offender refusal<sup>25</sup></b></p> <ul style="list-style-type: none"> <li>▪ Mandatory jail term of at least 3 days (permissive additional term, cumulative term up to 6 months).</li> <li>▪ Mandatory drivers’ intervention program of 3 days.</li> </ul>	
1 Prior Within 10 Years: <u>First Degree Misdemeanor</u>	
Jail or Prison Term	Other Penalties
<p><b>Under the influence/standard alcohol/drugs<sup>26</sup></b></p> <ul style="list-style-type: none"> <li>▪ Jail term of 10 days (permissive additional term, cumulative term up to 6 months).                             <ul style="list-style-type: none"> <li>▫ Alternative: jail term of 5 days and at least 18 days of EMHA, CAMHA, or a combination.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ Fine: \$525-\$1,625</li> <li>▪ License suspension of 1-7 years; hard suspension for first 45 days. Court may grant limited driving privileges:                             <ul style="list-style-type: none"> <li>▫ If alcohol-related, interlock device required;</li> <li>▫ If drug-related, interlock device optional.</li> </ul> </li> <li>▪ Vehicle immobilization and license plate impoundment for 90 days.</li> <li>▪ Restricted plates required for high-alcohol, optional for all others.</li> <li>▪ Mandatory assessment by community addiction services provider and compliance with recommendations.</li> </ul>
<p><b>High alcohol/repeat offender refusal<sup>27</sup></b></p> <ul style="list-style-type: none"> <li>▪ Jail term of 20 days (permissive additional term, cumulative term up to 6 months).                             <ul style="list-style-type: none"> <li>▫ Alternative: jail term of 10 days and at least 36 days of EMHA, CAMHA, or a combination.</li> </ul> </li> </ul>	

Table 3. OVI Sanctions	
2 Priors Within 10 Years: <u>Misdemeanor</u>	
Jail or Prison Term	Other Penalties
<p><b>Under the influence/standard alcohol/drugs<sup>28</sup></b></p> <ul style="list-style-type: none"> <li>▪ Jail term of 30 days (permissive additional term, cumulative term up to 1 year).                             <ul style="list-style-type: none"> <li>▫ Alternative: jail term of 15 days and at least 55 days of EMHA, CAMHA, or a combination.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ Fine: \$850-\$2,750</li> <li>▪ License suspension of 2-12 years; hard suspension for first 180 days. Court may grant limited driving privileges:                             <ul style="list-style-type: none"> <li>▫ If alcohol-related, interlock device required;</li> <li>▫ If drug-related, interlock device optional.</li> </ul> </li> <li>▪ Criminal forfeiture of vehicle.</li> <li>▪ Restricted plates required.</li> <li>▪ Mandatory assessment by community addiction services provider and compliance with recommendations.</li> </ul>
<p><b>High alcohol/repeat offender refusal<sup>29</sup></b></p> <ul style="list-style-type: none"> <li>▪ Jail term of 60 days (permissive additional term, cumulative term up to 1 year).                             <ul style="list-style-type: none"> <li>▫ Alternative: jail term of 30 days and at least 110 days of EMHA, CAMHA, or a combination.</li> </ul> </li> </ul>	
3 or 4 Priors Within 10 Years; 5 or More Priors Within 20 Years: <u>Fourth Degree Felony</u>	
Jail or Prison Term	Other Penalties
<p><b>Under the influence/standard alcohol/drugs<sup>30</sup></b></p> <ul style="list-style-type: none"> <li>▪ If 3 or 4 priors, court may impose either:                             <ul style="list-style-type: none"> <li>▫ Mandatory term of local incarceration of 60 days:                                     <ul style="list-style-type: none"> <li>❖ Permissive additional term, cumulative term up to 1 year;</li> <li>❖ Court may impose EMHA.</li> </ul> </li> <li>▫ Mandatory prison term of 60 days:                                     <ul style="list-style-type: none"> <li>❖ Permissive additional term between 6 months and 30 months total;</li> <li>❖ Court may impose community control sanction after prison term.</li> </ul> </li> </ul> </li> <li>▪ If 5 or more priors within 20 years, a mandatory prison term of 1, 2, 3, 4, or 5 years.                             <ul style="list-style-type: none"> <li>▫ Permissive additional term between 6 months and 30 months total;</li> <li>▫ Mandatory prison term must be served consecutively to and prior to the prison term imposed for the underlying offense.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ Fine: \$1,350-\$10,500</li> <li>▪ Class 2 license suspension 3 years-life; hard suspension for first 3 years. Court may grant limited driving privileges:                             <ul style="list-style-type: none"> <li>▫ If alcohol-related, interlock device required;</li> <li>▫ If drug-related, interlock device optional.</li> </ul> </li> <li>▪ Criminal forfeiture of vehicle.</li> <li>▪ Restricted plates required.</li> <li>▪ Mandatory assessment by community addiction services provider and compliance with recommendations.</li> </ul>

**Table 3. OVI Sanctions**

<p><b>High alcohol/repeat offender refusal<sup>31</sup></b></p> <ul style="list-style-type: none"> <li>▪ If 3 or 4 priors, court may impose either:                     <ul style="list-style-type: none"> <li>▫ Mandatory term of local incarceration of 120 days:                             <ul style="list-style-type: none"> <li>❖ Permissive additional term, cumulative term up to 1 year;</li> <li>❖ Court may impose EMHA.</li> </ul> </li> <li>▫ Mandatory prison term of 120 days:                             <ul style="list-style-type: none"> <li>❖ Permissive additional term between 6 months and 30 months total;</li> <li>❖ Court may impose community control sanction after prison term.</li> </ul> </li> </ul> </li> <li>▪ If 5 or more priors within 20 years, a mandatory prison term of 1, 2, 3, 4, or 5 years.                     <ul style="list-style-type: none"> <li>▫ Permissive additional term between 6 months and 30 months total.</li> <li>▫ Mandatory prison term must be served consecutively to and prior to the prison term imposed for the underlying offense.</li> </ul> </li> </ul>	
<p><b>Prior Felony OVI: <u>Third Degree Felony</u></b></p>	
<p><b>Jail or Prison Term</b></p>	<p><b>Other Penalties</b></p>
<p><b>Under the influence/standard alcohol/drugs<sup>32</sup></b></p> <ul style="list-style-type: none"> <li>▪ Mandatory prison term of 60 days (permissive additional term, cumulative term up to 36 months).                     <ul style="list-style-type: none"> <li>▫ Court may impose community control sanction.</li> </ul> </li> <li>▪ If 5 or more priors within 20 years, a mandatory prison term of 1, 2, 3, 4, or 5 years.                     <ul style="list-style-type: none"> <li>▫ Permissive additional term up to 36 months;</li> <li>▫ Mandatory prison term must be served consecutively to and prior to the prison term imposed for the underlying offense.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ Fine: \$1,350-\$10,500</li> <li>▪ Class 2 license suspension 3 years-life; hard suspension for first 3 years. Court may grant limited driving privileges:                     <ul style="list-style-type: none"> <li>▫ If alcohol-related, interlock device required;</li> <li>▫ If drug-related, interlock device optional.</li> </ul> </li> <li>▪ Criminal forfeiture of vehicle.</li> <li>▪ Restricted plates required.</li> <li>▪ Mandatory assessment by community addiction services provider and compliance with recommendations.</li> </ul>

**Table 3. OVI Sanctions**

<p><b>High alcohol/repeat offender refusal<sup>33</sup></b></p> <ul style="list-style-type: none"> <li>▪ Mandatory prison term of 120 days (permissive additional term, cumulative term up to 36 months).</li> <li>▫ Court may impose community control sanction after prison term.</li> <li>▪ If 5 or more priors within 20 years, a mandatory prison term of 1, 2, 3, 4, or 5 years.</li> <li>▫ Permissive additional term up to 36 months;</li> <li>▫ Mandatory prison term must be served consecutively to and prior to the prison term imposed for the underlying offense.</li> </ul>
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### Administrative sanctions

A court must credit, against a suspension described in Table 3, any time during which the person serves a related ALS.<sup>34</sup> A person who is convicted of or pleads guilty to OVI is assessed a specified number of points against the person’s driver’s license by the Registrar. Twelve or more points within a two-year period results in a Class D suspension (6 months). A person convicted of OVI is assessed 6 points.<sup>35</sup>

### Offense of OVUAC

The offense of OVI applies to any person who operates a vehicle in Ohio. But, because the legal drinking age is 21, the law contains a separate prohibition – operating a vehicle after underage alcohol consumption (OVUAC) – that applies only to people under age 21.

Accordingly, a person under 21 can be charged with OVUAC for lower alcohol concentrations than those associated with OVI. The OVUAC concentrations are set forth in Table 4.

**Table 4. Prohibited Concentrations of Alcohol, Under 21, OVUAC**

	Whole blood	Blood Serum or Plasma	Breath	Urine
Alcohol level <sup>36</sup>	<ul style="list-style-type: none"> <li>▪ 0.02% or more</li> <li>▪ less than 0.08%</li> </ul>	<ul style="list-style-type: none"> <li>▪ 0.03% or more</li> <li>▪ less than 0.096%</li> </ul>	<ul style="list-style-type: none"> <li>▪ 0.02g or more</li> <li>▪ less than 0.08g</li> </ul>	<ul style="list-style-type: none"> <li>▪ 0.028g or more</li> <li>▪ less than 0.11g</li> </ul>

The main pretrial sanction imposed on a person arrested for OVUAC is an ALS of the person’s driver’s license or permit, and the same suspensions, discussed above, apply. As for post-conviction sanctions, there are several types that a court is either authorized or required to impose; they are provided in Table 5. (If a person under 21 is under the minimum limits but is

above 0% or 0g, that person could be charged with under the influence. If a person under 21 is over the maximum limits, that person could be charged with OVI as described earlier.)

Table 5. OVUAC Sanctions	
0 Priors Within 1 Year: <u>Fourth Degree Misdemeanor</u> <sup>37</sup>	
Penalty	License Suspensions
<ul style="list-style-type: none"> <li>▪ Possible jail term of up to 30 days and up to a \$250 fine.</li> <li>▪ If an offender has 5 or more priors within 20 years, and the court imposes a jail term, the court must also impose an additional jail term of up to 6 months.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Class 6 judicial suspension (3 months-2 years); hard suspension for first 60 days.</li> <li>▪ Court may grant either:                             <ul style="list-style-type: none"> <li>▫ Limited driving privileges; or</li> <li>▫ Unlimited driving privileges, interlock device required, may reduce the suspension by half: If unlimited, court must suspend any jail term.</li> </ul> </li> <li>▪ 4 points on license.</li> </ul>
1 or More Priors Within 1 Year: <u>Third Degree Misdemeanor</u> <sup>38</sup>	
Penalty	License Suspensions
<ul style="list-style-type: none"> <li>▪ Possible jail term of up to 60 days and up to a \$500 fine.</li> <li>▪ If an offender has 5 or more priors within 20 years, and the court imposes a jail term, the court must also impose an additional jail term of up to 6 months.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Class 4 judicial suspension (1-5 years); hard suspension for first 60 days.</li> <li>▪ Court may grant limited driving privileges.</li> <li>▪ 4 points on license.</li> </ul>

## Juvenile Traffic Offenders

A juvenile traffic offender (JTO) is a person under 18 who commits a traffic offense. A JTO who is arrested and charged with OVI, OVUAC, or municipal OVI (explained below) is subject to the penalties explained in Table 6.

**Table 6. Sanctions for Juvenile Traffic Offender Charged with OVI or OVUAC**

Mandatory Penalties <sup>39</sup>	Optional Penalties <sup>40</sup>
<ul style="list-style-type: none"> <li>▪ The Registrar must impose a Class D suspension (6 months) of the child’s driver’s license or permit.                             <ul style="list-style-type: none"> <li>▫ A court may grant limited driving privileges;</li> <li>▫ The court may terminate the suspension if the child completes a drug abuse or alcohol abuse education, intervention, or treatment program.</li> </ul> </li> <li>▪ The court must impose a Class 6 suspension (3 months-2 years) of the child’s license or permit.                             <ul style="list-style-type: none"> <li>▫ The court may terminate the suspension if the child completes a drug abuse or alcohol abuse education, intervention, or treatment program.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ Suspend either of the following for not more than an additional 2 years:                             <ul style="list-style-type: none"> <li>▫ The child’s driver’s license or permit;</li> <li>▫ The registration of all motor vehicles registered in the child’s name.</li> </ul> </li> <li>▪ Place the child on community control. If the offense would be OVI, instead of OVUAC, if committed by an adult, commit the child for no more than 5 days to temporary custody of either:                             <ul style="list-style-type: none"> <li>▫ A juvenile detention or district detention facility;</li> <li>▫ An authorized school, camp, institution, or other facility for children.</li> </ul> </li> <li>▪ Impose costs, plus one or more financial sanctions.                             <ul style="list-style-type: none"> <li>▫ The financial sanctions include fines that are based on the misdemeanor or felony offense that would apply if the offense were committed by an adult.</li> </ul> </li> </ul>

If, after imposing any sanctions, the court finds that the child failed to comply or the child’s operation of a vehicle constitutes a danger, the court may impose additional sanctions.<sup>41</sup>

### Other OVI Offenses

A municipal corporation may enact a municipal OVI provision that specifies the sanctions to be imposed. Usually, the sanctions are similar to the state OVI and OVUAC sanctions. Additionally, if an Ohio resident is convicted of, or pleads guilty to, a violation of another state’s drunk driving law that is substantially similar to Ohio’s OVI statute, and the Registrar receives a report from that state about the offense, the Registrar must impose an ALS Class D suspension (six months).<sup>42</sup>

## Endnotes

<sup>1</sup> A brief explanation of “metabolite,” which is not explicitly defined in the Revised Code but is described in other states: a drug breaks into metabolites when inside a person’s body – technically, the *whole* drug that the person initially took is no longer in the body, but the *metabolites* that the drug broke into are still present and can be detected. (D.C. Code 50-2206.01, Wis. Stat. 49.791).

<sup>2</sup> R.C. 3719.011, 3719.01, 4511.19(A), and 4729.01.

<sup>3</sup> R.C. 4511.19(A)(1)(b)-(e).

<sup>4</sup> R.C. 4511.19(A)(1)(f)-(i).

<sup>5</sup> R.C. 4511.192(A).

<sup>6</sup> R.C. 4511.191(B) and (C).

<sup>7</sup> R.C. 4511.195(B).

<sup>8</sup> R.C. 4510.13(A); 4511.191(B) and (C); and 4511.192.

<sup>9</sup> R.C. 4510.13(A); 4511.191(B) and (C); 4511.192; and 4511.195(B).

<sup>10</sup> R.C. 4510.13(A); 4511.191(A)(5), (B), and (C); and 4511.195(B).

<sup>11</sup> R.C. 4510.13(A); 4511.191(A)(5), (B), and (C); and 4511.195(B).

<sup>12</sup> R.C. 4511.195(B)(1)(b).

<sup>13</sup> R.C. 4511.196(A) and 4511.197(A).

<sup>14</sup> R.C. 4511.197(C).

<sup>15</sup> R.C. 4511.196(B).

<sup>16</sup> R.C. 4503.234(A) and (C).

<sup>17</sup> Bryan A. Garner, *Black’s Law Dictionary* 651 (8th ed. 2004).

<sup>18</sup> R.C. 4511.19.

<sup>19</sup> R.C. 4510.01(C).

<sup>20</sup> Bryan A. Garner, *Black’s Law Dictionary* 1020 (8th ed. 2004).

<sup>21</sup> R.C. 4511.19(A)(2).

<sup>22</sup> R.C. 4503.233 and 4511.195(B).

<sup>23</sup> R.C. 2935.33(B), 4510.021(C), 4510.022, 4510.13(A)(5)(a), and 4511.19(G)(1)(a)(i), (iii), and (iv).

<sup>24</sup> It appears that restricted plates are not an option if a court grants unlimited driving privileges. R.C. 4510.021(C).

<sup>25</sup> R.C. 4510.022; 4510.13(A)(5)(a) and (A)(7); and 4511.19(G)(1)(a)(ii)-(iv).

<sup>26</sup> R.C. 4510.021(C); 4510.13(A)(5)(e); and 4511.19(G)(1)(b)(i), (iii)-(v), and (G)(3).

<sup>27</sup> R.C. 4510.13(A)(5)(e) and (A)(7) and 4511.19(G)(1)(b)(ii)-(v) and (G)(3).

<sup>28</sup> R.C. 4510.13(A)(5)(f) and (A)(7) and 4511.19(G)(1)(c)(i), (iii)-(vi), and (G)(3).

<sup>29</sup> R.C. 4510.13(A)(5)(f) and (A)(7) and 4511.19(G)(1)(c)(ii)-(vi) and (G)(3).

<sup>30</sup> R.C. 2929.13(G), 2941.1413, 4510.13(A)(5)(g) and (A)(7), and 4511.19(d)(i) and (iii)-(vii).

<sup>31</sup> R.C. 2929.13(G), 2941.1413, 4510.13(A)(5)(g) and (A)(7), and 4511.19(G)(1)(d)(ii)-(vii).

<sup>32</sup> R.C. 2929.13(G), 2929.14(A)(3)(b), 2941.1413, 4510.13(A)(5)(g) and (A)(7), and 4511.19(G)(1)(e)(i) and (iii)-(vi); *State v. South*, 144 Ohio St.3d 295, 2015-Ohio-3930, 42 N.E.3d 734.

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<sup>33</sup> R.C. 2929.13(G), 2929.14(A)(3)(b), 2941.1413, 4510.13(A)(5)(g) and (A)(7), and 4511.19(G)(1)(e)(ii)-(vi); *State v. South*, 144 Ohio St.3d 295, 2015-Ohio-3930, 42 N.E.3d 734.

<sup>34</sup> R.C. 4510.13(D).

<sup>35</sup> R.C. 4510.036.

<sup>36</sup> R.C. 4511.19(B)(1)-(4).

<sup>37</sup> R.C. 2929.24(E), 2941.1416, 4510.02, 4510.13(A)(5)(c) and 4511.19(H)(1).

<sup>38</sup> R.C. 2929.24(E), 2941.1416, 4510.02, 4510.13(A)(5)(c), and 4511.19(H)(2) and (3).

<sup>39</sup> Two separate sections provide for post-conviction penalties, but they do not explicitly state how the two suspensions operate together. R.C. 2152.20, 2152.21(B), and 4510.31(B).

<sup>40</sup> R.C. 2152.20 and 2152.21(A).

<sup>41</sup> R.C. 2152.21(A).

<sup>42</sup> R.C. 4510.17(B) and (E).