

OVI Survival Guide



DWI to OVI - Per Se Standards * Suspensions & Privileges
Interlock * OVI Penalties * OVI with a CDL
FRA Suspension * Driving Under Suspension
Wrongful Entrustment * Disabled & Distracted Drivers

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OVI Survival Guide – DWI to OVI

The beginning of the shift from DWI to OVI - The Per Se Standards came into effect around 2006, essentially what they did was place a limit on substances, making it illegal to drive with said substance over the established limit. Even though legislatively this was implemented the judicial and enforcement branches were not prepared; thus, Ohio did not really start seeing increased arrests related to the per se Standards until maybe 2013-2015. In the chart below these levels are identified.

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)-(xi).

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	To be specified by State Board of Pharmacy rule	To be specified by 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).

License Suspension & Priviledges

The chart below identifies the length of license suspension:

ADMINISTRATIVE LICENSE SUSPENSIONS¹

Refusal of Chemical Test RC 4511.191(B)

<i>No. of Refusal/ Offense in 10 Years</i>	<i>Type and Length² of Suspension</i>	<i>Driving Privileges</i>	<i>Restricted Plates</i>	<i>Restricted license/ Interlock³</i>
1 st	Class C (1 year)	After 30 days	Optional	Optional
2 nd	Class B (2 years)	After 90 days	Optional	Optional
3 rd	Class A (3 years)	After 1 year ⁴	Optional	Optional
4 th or more	5 years	After 3 years ⁴	Optional	Optional

Failed Chemical Test⁵ RC 4511.191(C)

<i>No. of Offense in 10 Years</i>	<i>Type and Length⁶ of Suspension</i>	<i>Driving Privileges</i>	<i>Restricted Plates</i>	<i>Restricted license/ Interlock³</i>
1 st	Class E (90 days)	After 15 days	Optional	Optional
2 nd	Class C (1 year)	After 45 days	Optional	Optional
3 rd	Class B (2 years)	After 180 days ⁷	Optional	Required if alcohol- related; optional if drug.
4 th or more	Class A (3 years)	After 3 years ⁷	Optional	Required if alcohol- related; optional if drug.

The above chart identifies the length of suspension, which is dependent on type of offense. Again, depending on the specifics of your charge (test results, refusal, officer, judge, etc.) the length of suspension may vary. Most people get privileges after 30 days if their license is not suspended by the BMV for other reasons.

Driving Privileges - Interlock

If you agree to having the interlock installed on your vehicle you can get unlimited privileges, this cost varies and includes installation, rental rate, and removal. Some come with cameras to make sure the appropriate person is using it. Some courts require their use.



⁷No privileges may be granted to offender with failed test who has had three or more convictions or guilty pleas within the preceding ten years. RC 4510.13(A)(3).

No privileges are given if a person has 3 prior OVI convictions in the past 10 years.

Penalties 1st & 2nd Offenses

Depending on your charge, below identifies the potential penalties:

PENALTIES

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

No. and Type of Offense	Degree of Offense	Incarceration	Fines	Treatment	Type and Length of Suspension	Driving Privileges	Restricted Plates and/or License/ Interlock	Immobilization/ Forfeiture
1 st in 10 years [simple OVI, low test or drug]	M-1	3 days jail or DIP. Up to 6 months. <i>Must suspend jail if Δ granted UDP.</i> ¹	\$375 - \$1,075	Optional	Unclassified (1 to 3 years). ² <i>May be reduced by half w/UDP.</i> ³	After 15 days	Plates optional. License/interlock ⁴ required for unlimited privileges.	No
1 st in 10 yrs. and either: [a] high test, or [b] refusal with prior in 20 years	M-1	6 days jail or 3 days jail and DIP. Up to 6 months. <i>Must suspend jail if Δ granted UDP.</i> ¹	\$375 - \$1,075	Optional	Unclassified (1 to 3 years). ² <i>May be reduced by half w/UDP.</i> ³	After 15 days	Plates required. License/interlock ⁴ required for unlimited privileges.	No
2 nd in 10 years [simple OVI, low test or drug]	M-1	10 days jail or 5 days jail and 18 days HAEM and/or CAM. ⁵ Up to 6 months.	\$525 - \$1,625	Alcohol/drug assessment, recommended treatment mandatory	Unclassified (1 to 7 years)	After 45 days	Plates optional. License/interlock ⁴ required if alcohol-related, optional if drug.	Immobilize 90 days if registered to Δ ^{6,7}
2 nd in 10 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. ⁵ Up to 6 months.	\$525 - \$1,625	Alcohol/drug assessment, recommended treatment mandatory	Unclassified (1 to 7 years)	After 45 days	Plates required for high-test/optional for refusal. License/interlock ⁴ required if alcohol-related, optional if drug.	Immobilize 90 days if registered to Δ ^{6,7}

1st in OVI in 10 years is 3 days jail or DIP & allows option of interlock

1st OVI in 10 years with a "high test" initiates 6 days & interlock for unlimited privileges

2nd in 10 years the offense initiates 10 days in jail & interlock if alcohol related

³A RC 4510.46 certified ignition interlock device (IID) violation, or operation of vehicle without IID, is subject to RC 4510.13(A)(8) penalties. Operation without a restricted license is subject to RC 4511.14 penalties.

Penalties 3rd Offenses

3 rd in 10 years [simple OVI, low test or drug]	Unclassified misdemeanor	30 days jail or 15 days jail and 55 days HAEM and/or CAM. ⁵ Up to 1 year.	\$850 - \$2,750	Alcohol/drug Addiction program mandatory	Unclassified (2 to 12 years) <i>[minimum may be reduced to 1 year]</i>	After 180 days ⁸	Plates required. License/interlock ⁴ required if alcohol-related, optional if drug.	Forfeit if registered to Δ ⁹
3 rd in 10 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. ⁵ Up to 1 year.	\$850 - \$2,750	Alcohol/drug addiction program mandatory	Unclassified (2 to 12 years) <i>[minimum may be reduced to 1 year]</i>	After 180 days ⁸	Plates required. License/interlock ⁴ required if alcohol-related, optional if drug.	Forfeit if registered to Δ ⁹

No privileges are given if a person has 3 prior OVI convictions (4th Offense) in past 10 years.

Penalties 4th Offenses and above

Either: [a] 4 th or 5 th in 10 years, or [b] 6 th 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. ¹⁰	\$1,350 - \$10,500	Alcohol/drug addiction program mandatory	Class 2 (3 years to life)	After 3 years ⁸	Plates required. License/interlock ⁴ required if alcohol-related, optional if drug.	Forfeit if registered to Δ ⁹
Either: [a] 4 th or 5 th in 10 years, or [b] 6 th 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. ¹⁰	\$1,350 - \$10,500	Alcohol/drug addiction program mandatory	Class 2 (3 years to life)	After 3 years ⁸	Plates required. License/interlock ⁴ required if alcohol-related, optional if drug.	Forfeit if registered to Δ ⁹
Either: 2 nd felony lifetime [simple OVI, low test or drug]	F-3	60 days prison . Up to 36 months. ^{10, 11}	\$1,350 - \$10,500	Alcohol/drug addiction program mandatory	Class 2 (3 years to life)	After 3 years ⁸	Plates required. License/interlock ⁴ required if alcohol-related, optional if drug.	Forfeit if registered to Δ ⁹
Either: 2 nd felony life-time, and : [a] high test, or [b] refusal	F-3	120 days prison . Up to 36 months. ^{10, 11}	\$1,350 - \$10,500	Alcohol/drug addiction program mandatory	Class 2 (3 years to life)	After 3 years ⁸	Plates required. License/interlock ⁴ required if alcohol-related, optional if drug.	Forfeit if registered to Δ ⁹
1 st or 2 nd felony lifetime with RC 2941.1413 specification	F-4 (1 st felony) F-3 (2 nd felony)	1, 2, 3, 4, or 5 years prison to be served prior and consecutive to any F-4 or F-3 penalties as set forth in boxes above and which may be imposed.	\$1,350 - \$10,500	Alcohol/drug addiction program mandatory	Class 2 (3 years to life)	After 3 years ⁸	Plates required. License/interlock ⁴ required if alcohol-related, optional if drug.	Forfeit if registered to Δ ⁹

Underage Substance Use Associated Offenses

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 License/ Interlock	Immobilization/ Forfeiture
1 st in 1 year	M-4	0-30 days jail. <i>Must suspend jail if Δ granted UDP.</i> ¹	\$0-\$250	Optional	Class 6 (90 days to 2 years). <i>May be reduced by half w/UDP.</i> ³	After 60 days	License/interlock ⁴ required for unlimited privileges	No
2 nd 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

Underage offenses are like they sound, for individuals under the legal drinking age. They are only 4 points and the penalties are not as severe.

Physical Control

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 License/ Interlock	Immobilization/ Forfeiture
Any	M-1	0-180 days jail	\$0 - \$1,000	Optional	Class 7 optional (Up to 1 year)	No "hard-time"	Optional	No

A Physical Control is a nonmoving offense, it usually doesn't hit your license with points and you rarely lose your license. An example is an individual, who are in their car, with their keys, and the vehicle is not running after drinking or using drugs.

Appeal & Implied Consent – What is implied Consent?

Ohio Revised Code § 4511.191. Any person who operates a vehicle on any public or private roadway in Ohio **is considered to have given his or her consent** to a chemical test of the person's blood, breath or urine to determine the presence of alcohol, controlled substance or both after a DUI-related arrest. The chemical test must be completed at the request of a law enforcement officer who has reason to believe the person operating the vehicle is intoxicated, according to Ohio law. If a person does not submit to the test within two hours it is considered a refusal, which carries an administrative license suspension.

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:^{*}

1. 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).
2. Whether the officer requested the person to submit to a chemical test or tests. RC 4511.197(C)(2).
3. 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).
4. Whichever of the following applies:
 - a. if a test refusal suspension was imposed, whether the person refused to submit to test or tests requested by the officer, or
 - b. 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).

^{*}Note, however, that BMV Form 2261 (ALS Court Disposition Notification), sets forth additional reasons for appeal not contained in RC 4511.197(C).

ORC 4511.192 (D)(1) When a driver refuses to submit to the sobriety tests, the arresting officer MUST seize the driver's license and immediately suspend the driver's operating privileges. The suspension starts at that moment, until the court can decide to either dismiss or continue with some level of suspension.

What are the Grounds for Appeal? There are several reasons a person could appeal an administrative license suspension.

ORC §4511.197, some grounds for appeal could include:

- Whether the arresting officer had reasonable ground to believe the driver was intoxicated;
- Whether the officer requested the arrested person to submit to the chemical test;
- If the driver was not informed of the penalties for refusal or failure of a chemical test;
- Whether the driver refused to submit to the test or Failure of the test is not present

ALSO, a person can appeal the suspension if he or she could not submit to a chemical test because of health problems. A person who appeals the suspension has the burden of proof, this means they have to show that one or more of the conditions has not been met. Basically, the driver and his or her legal counsel have explain why the suspension should be overturned.

CDL and OVI's

A driver's privilege to operate a CDL vehicle is disqualified when he or she is convicted of certain violations in a private passenger or commercial motor vehicle. No CDL driving privileges are permitted during the disqualification. The disqualification length is based on the offense(s) and may last from 60 days to life.

The first OVI offense for individuals with a CDL initiates a full year license suspension, a 2nd OVI for an individual with a CDL will result in a lifetime disqualification for a CDL license.

¹The imposition of an ALS, or a violation of RC 4506.15(A), results in a one-year commercial driver's (CDL) license disqualification. A second anytime results in a lifetime disqualification. RC 4506.16(D). No CDL privileges may be granted on an ALS or OVI suspension. RC 4510.13(A)(4). Further, CDL operators are subject to separate offenses prohibiting lower alcohol and/or controlled substance levels while operating a commercial vehicle. RC 4506.15.

COMMERCIAL DRIVER LICENSE (CDL) DISQUALIFICATION

A driver's privilege to operate a CDL vehicle is disqualified when he or she is convicted of certain violations in a private passenger or commercial motor vehicle. No CDL driving privileges are permitted during the disqualification. The disqualification length is based on the offense(s) and may last from 60 days to life.

Alcohol / Drug Violations RC 4506.15, 4506.16 & 4506.17		First Offense	Second Offense
Alcohol / Drug Test Refusal in Any MV		One Year*	Lifetime
Alcohol Positive Test in CMV	Any Detectible Amount	24 Hours Out of Service	24 Hours Out of Service
	0.04 Breath Test or 0.048 Blood Test or 0.056 Urine Test	One Year*	Lifetime
OVI Conviction in Any MV as well as Under Influence of a Controlled Substance in Any MV		One Year*	Lifetime

Driving Under Suspension

FRA Suspension – A FRA suspension can be very scary, the language employed is “indefinite suspension,” which feels like the suspension is a very long time. The reason it says indefinite is because the suspension lift is dependent on the person getting insurance, then sending proof to the BMV and sometimes their court.

Required filing with the BMV (SR-22 or bond) to continuously maintain proof of financial responsibility for three to five years from the date of the suspension of operating privileges.

Many people with OVI’s need an SR22 Bond, this is insurance on your person.

The BMV on FRA Suspensions

An FRA suspension is a penalty in the state of Ohio for lack of financial responsibility. If you are on an FRA suspension, your driving privileges are taken away. If you're found driving without insurance you can be issued a FRA suspension. If you're caught operating a vehicle during the suspension period, then you'd be cited for driving under an FRA suspension.

The acronym FRA does not stand for anything particular, but the FR is thought to stand for "financial responsibility."

Section 4509.101 of the Ohio Revised Code prohibits an individual from operating a motor vehicle in Ohio without maintaining proof of FR (financial responsibility) continuously throughout the registration period with respect to that vehicle, or, in the case of a driver who is not the owner, with respect to that driver's operation of that vehicle.

An FRA Suspension can result in fines and longer suspensions

Ohio Car Insurance law requires financial responsibility in the minimum amount of \$25,000 for bodily injury to or death of one individual in any one accident, \$50,000 for bodily injury to or death of two or more individuals in any one accident, and \$25,000 for injury to the property of others in any one accident.

**Need help with insurance after an OVI:
www.thezebra.com**

Failure to provide proof of financial responsibility, when required in Ohio, will result in the following civil penalties imposed by the Ohio Bureau of Motor Vehicles (BMV):

Loss of driving privileges for a minimum of 90 days and up to two years

License plates and vehicle registration suspension

Vehicle immobilization and confiscation of plates for 30 to 60 days for violating FRA suspension.

Third and subsequent offenses could result in vehicle forfeiture and a five-year suspension of vehicle registrations.

Ohio courts are authorized to order vehicle immobilization and impoundment of the license plates at the time of sentencing for those found driving on an FRA suspension. A first offense is 30 days, a second offense is 60 days and a third offense can result in the forfeiture of your vehicle. The Ohio BMV can give you more information about FRA suspensions.

Driving while on a suspension from an OVI results in 6 points on your license.

Failure to Reinstate

If you are convicted for failure to reinstate your license, you will face misdemeanor charges. A first and second offense will be considered an unclassified misdemeanor offense. This is punishable by up to 500 hours of community service and a fine of up to \$1,000.

The third offense and all subsequent offenses are taken more seriously. Instead of an unclassified misdemeanor arrest, you will be arrested for a first degree misdemeanor. It is punishable by a fine of up to \$1,000 as well, but also up to 180 days in jail. This misdemeanor is generally treated quite harshly, as it is a third offense, so the courts are often unsympathetic.

How to Get Your License Reinstated

Getting your license properly reinstated is therefore vital before getting back behind the wheel. You should ideally send in proof of fulfillment of all the license reinstatement requirements 20 days before the suspension is up in order to ensure that there are no delays. Depending on the reason for your license suspension, you may have a variety of requirements to complete before you are eligible. These commonly include defensive driving or remedial driving courses, alcohol or drug treatment, community service, payment of restitution, and proof of insurance or a liability bond. In addition, you will always have to pay the Ohio Bureau of Motor Vehicles (BMV) reinstatement fees.

Reinstatement Fees

The exact fee required to reinstate your license depends on the reason for the original suspension. Some of the most common BMV reinstatement fees are as follows:

- \$475 for an OVI conviction, chemical test refusal, or physical control suspension
- \$100 for non-compliance reinstatement (or \$300 for a second offense or \$600 for a third offense)
- \$25 for lack of car insurance or nonpayment of child support
- \$15 for an outstanding warrant

Wrongful Entrustment

In Ohio, you may be charged with wrongful entrustment of a motor vehicle if you allow someone who to operate a motor vehicle under any of the following circumstances:

- **The individual does not possess a valid driver's license, commercial driver's license, driver's permit, or valid nonresident driving privileges**
- **The individual is on a driver's license suspension**
- **The individual has no proof of financial responsibility (auto insurance)**
- **The individual is under the influence of drugs or alcohol**

If the alleged driver lives in your household and is related by blood or marriage, you (or the owner of the vehicle) may be charged with wrongful entrustment.

The consequences: This usually results in vehicle immobilization for 30 days if convicted on a first offense. The period for vehicle immobilization increases with repeat offenses; a second conviction may come with a 60-day immobilization while a third conviction may come with a forfeiture penalty.

This is a 0 Point Violation: There are no points associated with this offense. A charge of wrongful entrustment could lead to sizable fines, potential jail time or community service, and other penalties including vehicle immobilization, vehicle forfeiture, and/or vehicle impound plates.

Disabled & Distracted Drivers

You must have a referral from your physician. The reports from the evaluation as well as our recommendations will be sent back to your physician.

The Evaluation: First is a clinical evaluation which helps us get to know you and the reasons you are coming in for a driving evaluation. This part includes a review of your medical history, medications, and driving history. We will also complete assessments for visual skills, thinking and memory skills, reaction time, physical abilities, and understanding of basic road signs and rules. We do have a driving simulator which is used to test your reaction time, as well as visual attention and scanning.

Second, the on road assessment begins in a parking lot so you can get familiar with the car and your OT can assess your basic driving skills. Depending on your ability, you may progress to residential streets, commercial streets, and highway driving. Upon completion of the on road assessment, your OT will review the results with you and make recommendations for your driving status.



Kettering – 937-401-6109
Columbus Ohio State: 614-685-5600
Tri-Health Cincinnati: 513-862-2481



Medical Marijuana prescription holders can also access assistance with these numbers.

Distracted Drivers

"Driving while **texting, or eating, or dialing a phone** should be as culturally unacceptable as drunk driving is today," said Governor DeWine. "When drivers choose to do **anything that distracts** them from paying full attention to the road, they choose to risk their own lives, the lives of their passengers, and the lives of everyone else around them. Now is the time to create a long-term, comprehensive plan that educates drivers, promotes changes in behavior, and strengthens Ohio's distracted driving laws."

Ohio law bans the use of any electronic wireless communications devices for drivers under 18. Texting while driving is illegal for all drivers but is a secondary offense for drivers 18 and above.

ORC -4511.204 Driving while texting. (A) No person shall drive a motor vehicle, trackless trolley, or streetcar on any street, highway, or property open to the public for vehicular traffic while using a handheld electronic wireless communications device to write, send, or read a text-based communication.

"Engaging in any activity that is not necessary to the operation of a vehicle ."

ORC -4511.991 "Distracted" defined; violations (1) "Distracted" means doing either of the following while operating a vehicle: ... (b) Engaging in any activity that is not necessary to the operation of a vehicle and impairs, or reasonably would be expected to impair, the ability of the operator to drive the vehicle safely.

At our Driver Intervention Programs, we have seen clients who have been arrested for crying while driving, eating while driving, aggressive driving, texting and driving, cell phone use, applying makeup while driving, animals on their laps while driving, etc....

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