

APPEAL PROCESS FOR ADMINISTRATIVE LICENSE SUSPENSION (ALS)

The court must hold the administrative license suspension hearing within five days of arrest. The appeal is heard at this initial appearance if requested. The scope of appeal is confined to four issues.

1. Was the arrest based on reasonable grounds?
2. Did the officer request the person to take a test?
3. Was the violator made aware of the consequences if he/she refused or failed the test?
4. Did the person refuse or fail the test?

Note: A court may still issue a suspension even if 1-4 is proven by defendant if court finds the person is a threat to public safety.

DRIVING UNDER DUI SUSPENSION OR DRIVING UNDER SUSPENSION WITHOUT INSURANCE

The court is authorized to order vehicle immobilization and impoundment of the license plates at the time of sentencing for:

Driving under DUI Suspension

First Offense: 30 days

Second Offense: 60 days

Third Offense: forfeiture

Driving under FRA Suspension

First Offense: 30 Days

Second Offense: 60 Days

Third Offense: forfeiture

Note: For multiple DUI offenders under suspension, the court may also impound the plates of any other vehicle owned by the offender.

Permitting a person with no legal right to drive to operate your vehicle

First Offense: 30 Days

VEHICLE FORFEITURE

Permanent loss of vehicle shall be ordered by the court for any of the following which occurs within five years, except "C":

- A) Fourth offense of DUI
- B) Third offense or more of Driving Under Suspension (DUS) for DUI or driving under suspension for financial responsibility (FRA)
- C) Second offense of owner knowingly permitting a person who is under suspension to drive their vehicle
- D) First offense of driving a vehicle that is immobilized and plates impounded

There is a provision for a court review to protect an innocent vehicle owner from a vehicle forfeiture or immobilization. If forfeiture occurs, offender cannot register or title any vehicle in his or her name for five years.

Governor George V. Voinovich • Lt. Governor Nancy P. Hollister • Director Charles D. Shipley

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Swift & SURE

OHIO'S NEW D.U.I. LAWS

REAL CASE STUDIES:

25-year-old single female with child

- First-time DUI offense
- BAC .197%
- On-the-spot license suspension for 90 days

AFTER GOING TO COURT:

- Found guilty of DUI
- License suspension of 90 days and probation for six months
- Mandatory attendance at Mothers Against Drunk Driving (MADD) impact panel (at least twice).
- Attorney fees of over \$850
- 12 weeks of counseling
- Missed five days of work
- Counseled by employer

LICENSE REINSTATEMENT PROCESS:

- Must pay \$250 Administrative License Suspension reinstatement fee
- Must pay \$250 first offense DUI reinstatement fee
- Must have insurance agent complete BMV Form 2083 to confirm high-risk insurance for Bureau of Motor Vehicles

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The First Time:

Ohio's DUI Laws



**IF YOU DRINK AND
DRIVE, YOU ARE
COMMITTING A
SERIOUS CRIME
WHICH HAS
SWIFT AND SURE
CONSEQUENCES
THAT ARE HARD TO
IGNORE.**

In the last ten years, 7,239 people were killed and 286,768 injured in alcohol-related crashes in Ohio.

Beginning September 1, 1993, sweeping reforms of Ohio's drunk driving laws will go into effect which will make it tough for drivers who make the wrong decision to drink and get behind the wheel of a motor vehicle.

**NEW
Administrative
License Suspension
(ALS)**

If you are stopped for drunk driving and you refuse to take the sobriety test or if your test results exceed the legal limit of .10% Blood Alcohol Concentration (BAC), the officer can take your driver's license on the spot, and the suspension begins immediately.

Depending on previous offenses or refusals, you can have your license automatically suspended for a period of 90 days to five years.

The administrative suspension is independent of any jail term, fine or other criminal penalty imposed in court for a DUI offense.

1ST OFFENSE

- Administrative License Suspension (ALS) for 90 Days for .10% or above BAC
- ALS for test refusal = one year license suspension
- Jail: Minimum of three consecutive days or 3-day driver intervention program
- Fine: Minimum \$200 and not more than \$1,000
- Court License Suspension: 6 months to 3 yrs.

2ND OFFENSE

- ALS for one year for .10% or above BAC
- ALS for test refusal = two year license suspension
- Jail: Minimum of 10 consecutive days or five days jail + minimum 18 consecutive days of electronically monitored house arrest combined, not to exceed 6 months
- Fine: Minimum \$300 and not more than \$1500
- Discretionary driver's intervention program
- Vehicle immobilization and plates impounded for 90 days
- Court License Suspension: 1 yr. to 5 yrs.

3RD OFFENSE

- ALS for two years for .10% or above BAC
- ALS for test refusal = three year license suspension
- Jail: Minimum 30 consecutive days to one year
- Alternative sentence: 15 days of jail + minimum 55 consecutive days of electronically monitored house arrest combined, maximum of one year
- Fine: Minimum \$500 and not more than \$2500
- Mandatory attendance in an alcohol treatment program paid for by offender
- Vehicle Immobilization and plates impounded for 180 days
- Court License Suspension: 1 yr. to 10 yrs.

**4TH OR MORE OFFENSE
OR MOTOR VEHICLE
RELATED FELONY**

- ALS for three years for .10% or above BAC
- ALS for test refusal = five years license suspension
- Jail: Minimum of 60 consecutive days and up to one year in jail
- Fine: Minimum \$750 and not more than \$10,000
- Mandatory drug/alcohol treatment program paid for by offender
- Vehicle Forfeiture: Mandatory criminal forfeiture of vehicle operated by offender, imposed by court
- Court License Suspension: 3 yrs. to Permanent Revocation

**IF YOU ARE ARRESTED FOR
SUSPECTED IMPAIRED DRIVING,
UNDER OHIO LAW YOU WILL...**

- Be asked to take a sobriety test. If you take it and fail, by testing at .10% blood alcohol concentration (BAC) or above, you will be charged with DUI under Ohio's new laws.
- Immediately have your license taken away by the arresting law enforcement officer, and you are under immediate suspension.
- Lose your driver's license for at least 90 days and face other penalties when you go to court.

**There will be no occupational
driving privileges for at least 15 days!**

**IF YOU REFUSE TO TAKE A SOBRIETY
TEST, YOU WILL...**

- Automatically lose your license on the spot for one full year! Even if you are found NOT GUILTY at a later date, under Ohio law you still lose your license for the full year.

You also face other court requirements!

**IF FOUND GUILTY BY THE COURT,
YOU FACE...**

- Jail: Minimum of three consecutive days or three-day driver intervention program
- Fine: Minimum \$200 and not more than \$1,000
- Court License Suspension: Six months to three years

REAL CASE STUDIES:

30-year-old male, married with children

- First-time DUI offense
- BAC .171%
- On-the-spot license suspension for 90 days

AFTER GOING TO COURT...

- Found guilty of DUI
- Fined \$500 and court costs, with \$250 suspended
- 180 days probation and 177 days suspended upon attendance at a three-day drug & alcohol intervention program.
- Mandatory attendance at Mothers Against Drunk Driving (MADD) impact panel (at least twice).
- 12 weeks of counseling
- Attorney fees of over \$700
- Missed two days of work

LICENSE REINSTATEMENT PROCESS:

- Must pay \$250 Administrative License Suspension (ALS) reinstatement fee
- Must pay \$250 first offense DUI reinstatement fee
- Must have insurance agent complete BMV Form 2083 to confirm liability insurance for The Ohio Bureau of Motor Vehicles. A conviction may result in higher insurance rates for the driver.

**Occupational driving privileges
may be requested from the court
but not necessarily granted.**



**OHIO BUREAU OF MOTOR VEHICLES
REPORT OF PEACE OFFICER
ADMINISTRATIVE LICENSE SUSPENSION/NOTICE OF POSSIBLE CDL DISQUALIFICATION
IMMOBILIZATION/FORFEITURE**

NAME		DRIVER LICENSE NUMBER		CLASS	STATE
CURRENT STREET ADDRESS (AS VERIFIED BY OFFICER)					
CITY		COUNTY OF RESIDENCE		STATE	ZIP CODE
DATE OF BIRTH MONTH	DAY	YEAR	SOCIAL SECURITY NUMBER		
DATE AND TIME OF VIOLATION		DATE AND TIME OF		COURT CODE	COUNTY OF VIOLATION
		REFUSAL / 0 TEST			
/ /		/ /			
AM		AM			
PM		PM			
VIN:		YEAR	MAKE	LICENSE PLATE NO.	TYPE PLATE
VEHICLE OWNER'S NAME		STREET ADDRESS			
CITY		STATE	ZIP CODE	SOCIAL SECURITY NUMBER	

The arresting officer to answer the following:

COMPLETE FOR ALL ARRESTS: (Circle one)

<p>Reasonable grounds were: _____</p> <p>(ADVICE MUST BE SHOWN AND READ TO DRIVER. TEXT IS ON BACK.)</p> <p>I requested the driver to submit to a blood, breath or urine test for alcohol concentration and/or for the presence of any controlled substance. The driver: <i>Circle one:</i></p> <p>YES NO Refused to submit to test(s).</p> <p>YES NO Submitted to test(s).</p> <p> % concentration level (Circle one) Blood, breath, or urine.</p> <p>YES NO Was placed under an administrative license suspension (4511.191).</p>	<p>YES NO License was seized.</p> <p>YES NO Was provided a copy of this form at the time of arrest.</p>
	<p>VEHICLE SANCTIONS:</p> <p>YES NO Were license plates seized?</p> <p>YES NO Was the vehicle seized under 4511.195 (OMVI)?</p> <p>YES NO Was the vehicle seized under 4507.38 only (DUS or wrongful entrustment)?</p> <p>YES NO Is vehicle subject to forfeiture?</p>

The advice (4511.191) on the back of this form was read and shown to me and I have received a copy of this form.

In case of a commercial vehicle, the advice (4506.17) on the back of this form was also read and shown to me.

X
Signature of Driver (OMVI arrest only)

X
Signature of Driver (Commercial vehicle arrest only)

COMPLETE ONLY IF OFFENDER WAS OPERATING COMMERCIAL VEHICLE

<p>Arresting Officer to check the items that apply:</p> <p><input type="checkbox"/> READ AND SHOWED ADVICE (4506.17) TO OFFENDER</p> <p><input type="checkbox"/> REFUSAL</p> <p>ALCOHOL TEST RESULTS _____ %</p> <p><input type="checkbox"/> Commercial driver license</p> <p><input type="checkbox"/> Commercial vehicle</p> <p><input type="checkbox"/> BAC content of .04 or above without OMVI charge</p>	<p><input type="checkbox"/> BAC content of .04 or above with OMVI charge</p> <p><input type="checkbox"/> 24-hour out-of-state service order</p> <p><input type="checkbox"/> CDL to be disqualified</p> <p><input type="checkbox"/> CDL seized</p> <p><input type="checkbox"/> Violation of previous 24-hour out-of-service order</p> <p><input type="checkbox"/> Hazardous material</p> <p><input type="checkbox"/> Operated a motor vehicle under the influence of a controlled substance</p>
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COMPLETE BELOW ONLY ON OMVI ARREST:

We, the undersigned, certify that the advice prescribed by the Legislature (under 4511.191), was shown to the person under arrest and read to him or her in the presence of the arresting officer and one other police officer or civilian police employee or employee of a first aid station, clinic, or hospital, at a police station, or at a hospital, first-aid station, or clinic to which the person was taken for first-aid or medical treatment.

X
SIGNATURE OF ARRESTING OFFICER

X
SIGNATURE OF WITNESS

OH 	N.C.I.C. NUMBER
ENFORCEMENT AGENCY	OFFICER'S BUSINESS STREET ADDRESS
CITY	STATE
ZIP CODE	

**COMPLETE BELOW ONLY ON OMVI ARREST OR ARREST INVOLVING COMMERCIAL VEHICLE:
AFFIDAVIT OF ARRESTING OFFICER:
STATE OF OHIO, COUNTY OF _____**

X
ARRESTING OFFICER'S SIGNATURE

Sworn to before me this _____ day of _____ 19____.

NOTARY PUBLIC'S SIGNATURE

DEPUTY CLERK OF COURT'S SIGNATURE

City of _____

White / Original - BMV Yellow - Court
Green - Law Enforcement Pink - Driver

Copy to be mailed to BMV on refusal, .10% test and commercial vehicle arrest.

TEST AND REFUSAL CONSEQUENCES (MUST BE READ TO OMVI OFFENDER)

4511.191

"You now are under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or both alcohol and a drug of abuse and will be requested by a police officer to submit to a chemical test to determine the concentration of alcohol, drugs of abuse, or alcohol and drugs of abuse in your blood, breath, or urine.

"If you refuse to submit to the requested test, or if you submit to the requested test and are found to have a prohibited concentration of alcohol in your blood, breath, or urine, your driver's or commercial driver's license or permit or nonresident operating privilege immediately will be suspended for the period of time specified by law by the officer, on behalf of the Registrar of Motor Vehicles. You may appeal this suspension at your initial appearance before the court that hears the charges against you resulting from the arrest, and your initial appearance will be conducted no later than five days after the arrest. This suspension is independent of the penalties for the offense, and you may be subject to other penalties upon conviction.

"You may make an appeal of this suspension in court at the time of your initial appearance. Even though you may appeal this suspension, your driving privileges will be suspended."

4506.17 (MUST BE READ TO OFFENDER DRIVING A COMMERCIAL VEHICLE IN ADDITION TO THE ABOVE)

"You have been stopped or detained based on reasonable ground of driving a commercial motor vehicle in violation of section 4506.15 of the Ohio Revised Code. It will be requested that you submit to a test or tests of your blood, breath, or urine for the purpose of determining alcohol concentration or the presence of any controlled substance. If you refuse to submit to the test or tests, you will immediately be placed out-of-service for twenty-four hours, and you will be disqualified from operating a commercial motor vehicle for a period of not less than one year, and you will be required to surrender your commercial driver's license."

(Signature of driver on front of form)

ADDITIONAL INFORMATION FOR OFFENDER

IMMOBILIZATION OR FORFEITURE UPON OMVI ARREST. 4511.195. If you have previously been convicted of operating a motor vehicle under the influence, OMVI, 4511.19, or similar municipal ordinance, the vehicle and its identification license plates will be seized. The vehicle will be towed and kept by the law enforcement agency or will be immobilized. The period of time for which the vehicle and license plates will be kept or immobilized will be at least until the initial appearance in court. At the initial appearance the court may order that the vehicle and license plates be returned or released to the vehicle owner until the disposition of the charge. If you are convicted of or plead guilty to OMVI, the court may issue an order of immobilization of the vehicle and the impoundment of its license plates, or an order for the criminal forfeiture of the vehicle to the state. If you are not the vehicle owner you must immediately inform the owner that the vehicle and its license plates have been seized and that the owner may be able to obtain the return or release at the initial appearance in court.

OFFENDERS ARRESTED FOR DRIVING UNDER SUSPENSION OR WRONGFUL ENTRUSTMENT. 4507.38. If you are charged for driving under an FRA suspension, 4507.02(B)(1) or driving under an OMVI suspension, 4507.02(D)(2), or wrongful entrustment, 4507.33, the vehicle and identification plates will be seized, and the vehicle will either be towed and kept by the law enforcement agency or will be immobilized. The period of seizure or immobilization will be at least until your initial appearance in court. At the initial appearance the court may order the vehicle returned to you or released to the vehicle owner. If you are convicted, the court may issue an order of immobilization of the vehicle and impoundment of its license plates. Upon a second conviction of wrongful entrustment 4507.33, or a third conviction of driving under an FRA suspension or an OMVI suspension 4507.02, or a municipal ordinance similar to one of the above, the court, upon your conviction, may order the forfeiture of the vehicle. If you are not the vehicle owner, you should immediately inform the owner that the vehicle and the license plates have been seized and that the owner may be able to obtain return or release of the vehicle and plates at your initial appearance in court.

If you have a **COMMERCIAL DRIVER** license and you were **OPERATING A COMMERCIAL VEHICLE**:

A. You may request an Administrative Hearing for your DISQUALIFICATION by:

1. Preparing a **WRITTEN** request.
2. Submit the request by **REGISTERED** or **CERTIFIED MAIL** within 30 days of your refusal or test date (see reverse side).
3. Mail to:

OHIO BUREAU OF MOTOR VEHICLES
Attention: Drivers CDL
P.O. Box 16784
Columbus, Ohio 43266-0084

B. You may make an appeal of this SUSPENSION in court at the time of your initial appearance. Even though you may appeal this suspension, your driving privileges will still be suspended.

NOTICE OF SUSPENSION (4511.191)

Independent of any penalties or sanctions imposed upon you pursuant to any other section of the Revised Code or any other municipal ordinance, your driver's or commercial driver's license or permit or nonresident operating privilege is now suspended. The suspension takes effect immediately. The suspension will last at least until your initial appearance on the charge that will be held within five days after the date of this arrest or the issuance of a citation to you. You may appeal the suspension at the initial appearance.

LENGTH OF SUSPENSION (depending on prior instances within 5 years)

FOR REFUSAL

No prior refusals	1 year
One prior refusal	2 years
Two prior refusals	3 years
Three or more prior refusals	5 years

FOR PROHIBITED CONCENTRATION OF ALCOHOL

No prior convictions	90 days
One prior conviction	1 year
Two prior convictions	2 years
Three prior convictions	3 years