

State DUI Laws: Ohio

Legal Blood Alcohol Content Level: .08

Automatic Suspension of License for Failure of Blood Alcohol Test or Refusal to Submit to Test: Yes

Ignition Interlock Requirement upon Conviction: Yes

Felony Conviction for Repeat Offenses: Yes

Ohio Revised Code

§ 2903.06. Aggravated vehicular homicide; vehicular homicide; vehicular manslaughter

(A) No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall cause the death of another or the unlawful termination of another's pregnancy in any of the following ways:

(1) (a) As the proximate result of committing a violation of division (A) of section 4511.19 of the Revised Code or of a substantially equivalent municipal ordinance;

(b) As the proximate result of committing a violation of division (A) of section 1547.11 of the Revised Code or of a substantially equivalent municipal ordinance;

(c) As the proximate result of committing a violation of division (A)(3) of section 4561.15 of the Revised Code or of a substantially equivalent municipal ordinance.

(2) In one of the following ways:

(a) Recklessly;

(b) As the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a reckless operation offense, provided that this division applies only if the person whose death is caused or whose pregnancy is unlawfully terminated is in the construction zone at the time of the offender's commission of the reckless operation offense in the construction zone and does not apply as described in division (F) of this section.

(3) In one of the following ways:

(a) Negligently;

(b) As the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a speeding offense, provided that this division applies only if the person whose death is caused or whose pregnancy is unlawfully terminated is in the construction zone at the time of the offender's commission of the speeding offense in the construction zone and does not apply as described in division (F) of this

section.

(4) As the proximate result of committing a violation of any provision of any section contained in Title XLV of the Revised Code that is a minor misdemeanor or of a municipal ordinance that, regardless of the penalty set by ordinance for the violation, is substantially equivalent to any provision of any section contained in Title XLV of the Revised Code that is a minor misdemeanor.

(B) (1) Whoever violates division (A)(1) or (2) of this section is guilty of aggravated vehicular homicide and shall be punished as provided in divisions (B)(2) and (3) of this section.

(2) (a) Except as otherwise provided in this division, aggravated vehicular homicide committed in violation of division (A)(1) of this section is a felony of the second degree. Aggravated vehicular homicide committed in violation of division (A)(1) of this section is a felony of the first degree if any of the following apply:

(i) At the time of the offense, the offender was driving under a suspension imposed under Chapter 4510. or any other provision of the Revised Code.

(ii) The offender previously has been convicted of or pleaded guilty to a violation of this section.

(iii) The offender previously has been convicted of or pleaded guilty to any traffic-related homicide, manslaughter, or assault offense.

(iv) The offender previously has been convicted of or pleaded guilty to three or more prior violations of section 4511.19 of the Revised Code or of a substantially equivalent municipal ordinance within the previous six years.

(v) The offender previously has been convicted of or pleaded guilty to three or more prior violations of division (A) of section 1547.11 of the Revised Code or of a substantially equivalent municipal ordinance within the previous six years.

(vi) The offender previously has been convicted of or pleaded guilty to three or more prior violations of division (A)(3) of section 4561.15 of the Revised Code or of a substantially equivalent municipal ordinance within the previous six years.

(vii) The offender previously has been convicted of or pleaded guilty to three or more violations of any combination of the offenses listed in division (B)(2)(a)(iv), (v), or (vi) of this section.

(viii) The offender previously has been convicted of or pleaded guilty to a second or subsequent felony violation of division (A) of section 4511.19 of the Revised Code.

(b) In addition to any other sanctions imposed pursuant to division (B)(2)(a) of this section for aggravated vehicular homicide committed in violation of division (A)(1) of this section, the court shall impose upon the offender a class one suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege as specified in division (A)(1) of section 4510.02 of the Revised Code.

(3) Except as otherwise provided in this division, aggravated vehicular homicide committed in violation of division (A)(2) of this section is a felony of the third degree. Aggravated vehicular homicide committed in violation of division (A)(2) of this section is a felony of the second degree if, at the time of the offense, the offender was driving under a suspension

imposed under Chapter 4510. or any other provision of the Revised Code or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense.

In addition to any other sanctions imposed pursuant to this division for a violation of division (A)(2) of this section, the court shall impose upon the offender a class two suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(2) of section 4510.02 of the Revised Code.

(C) Whoever violates division (A)(3) of this section is guilty of vehicular homicide. Except as otherwise provided in this division, vehicular homicide is a misdemeanor of the first degree. Vehicular homicide committed in violation of division (A)(3) of this section is a felony of the fourth degree if, at the time of the offense, the offender was driving under a suspension or revocation imposed under Chapter 4507. or any other provision of the Revised Code or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense.

In addition to any other sanctions imposed pursuant to this division, the court shall impose upon the offender a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of section 4510.02 of the Revised Code or, if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense, a class three suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(3) of that section.

(D) Whoever violates division (A)(4) of this section is guilty of vehicular manslaughter. Except as otherwise provided in this division, vehicular manslaughter is a misdemeanor of the second degree. Vehicular manslaughter is a misdemeanor of the first degree if, at the time of the offense, the offender was driving under a suspension imposed under Chapter 4510. or any other provision of the Revised Code or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense.

In addition to any other sanctions imposed pursuant to this division, the court shall impose upon the offender a class six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(6) of section 4510.02 of the Revised Code or, if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense, a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of that section.

(E) The court shall impose a mandatory prison term on an offender who is convicted of or pleads guilty to a violation of division (A)(1) of this section. The court shall impose a mandatory jail term of at least fifteen days on an offender who is convicted of or pleads guilty to a misdemeanor violation of division (A)(3)(b) of this section and may impose upon the offender a longer jail term as authorized pursuant to section 2929.24 of the Revised Code. The court shall impose a mandatory prison term on an offender who is convicted of or pleads guilty to a violation of division (A)(2) or (3)(a) of this section or a felony violation of division (A)(3)(b) of this section if either of the following applies:

(1) The offender previously has been convicted of or pleaded guilty to a violation of this section or section 2903.08 of the Revised Code.

(2) At the time of the offense, the offender was driving under suspension under Chapter 4510. or any other provision of the Revised Code.

(F) Divisions (A)(2)(b) and (3)(b) of this section do not apply in a particular construction zone unless signs of the type described in section 2903.081 of the Revised Code are erected in that construction zone in accordance with the guidelines and design specifications established by the director of transportation under section 5501.27 of the Revised Code. The failure to erect signs of the type described in section 2903.081 [2903.08.1] of the Revised Code in a particular construction zone in accordance with those guidelines and design specifications does not limit or affect the application of division (A)(1), (A)(2)(a), (A)(3)(a), or (A)(4) of this section in that construction zone or the prosecution of any person who violates any of those divisions in that construction zone.

(G) (1) As used in this section:

(a) "Mandatory prison term" and "mandatory jail term" have the same meanings as in section 2929.01 of the Revised Code.

(b) "Traffic-related homicide, manslaughter, or assault offense" means a violation of section 2903.04 of the Revised Code in circumstances in which division (D) of that section applies, a violation of section 2903.06 or 2903.08 of the Revised Code, or a violation of section 2903.06, 2903.07, or 2903.08 of the Revised Code as they existed prior to March 23, 2000.

(c) "Construction zone" has the same meaning as in section 5501.27 of the Revised Code.

(d) "Reckless operation offense" means a violation of section 4511.20 of the Revised Code or a municipal ordinance substantially equivalent to section 4511.20 of the Revised Code.

(e) "Speeding offense" means a violation of section 4511.21 of the Revised Code or a municipal ordinance pertaining to speed.

(2) For the purposes of this section, when a penalty or suspension is enhanced because of a prior or current violation of a specified law or a prior or current specified offense, the reference to the violation of the specified law or the specified offense includes any violation of any substantially equivalent municipal ordinance, former law of this state, or current or former law of another state or the United States.

§ 2903.08. Aggravated vehicular assault; vehicular assault

(A) No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall cause serious physical harm to another person or another's unborn in any of the following ways:

(1) (a) As the proximate result of committing a violation of division (A) of section 4511.19 of the Revised Code or of a substantially equivalent municipal ordinance;

(b) As the proximate result of committing a violation of division (A) of section 1547.11 of the Revised Code or of a substantially equivalent municipal ordinance;

(c) As the proximate result of committing a violation of division (A)(3) of section 4561.15 of the Revised Code or of a substantially equivalent municipal ordinance.

(2) In one of the following ways:

(a) As the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a reckless operation offense, provided that this division applies only if the person to whom the serious physical harm is caused or to whose unborn the serious physical harm is caused is in the construction zone at the time of the offender's commission of the reckless operation offense in the construction zone and does not apply as described in division (E) of this section;

(b) Recklessly.

(3) As the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a speeding offense, provided that this division applies only if the person to whom the serious physical harm is caused or to whose unborn the serious physical harm is caused is in the construction zone at the time of the offender's commission of the speeding offense in the construction zone and does not apply as described in division (E) of this section.

(B) (1) Whoever violates division (A)(1) of this section is guilty of aggravated vehicular assault. Except as otherwise provided in this division, aggravated vehicular assault is a felony of the third degree. Aggravated vehicular assault is a felony of the second degree if any of the following apply:

(a) At the time of the offense, the offender was driving under a suspension imposed under Chapter 4510. or any other provision of the Revised Code.

(b) The offender previously has been convicted of or pleaded guilty to a violation of this section.

(c) The offender previously has been convicted of or pleaded guilty to any traffic-related homicide, manslaughter, or assault offense.

(d) The offender previously has been convicted of or pleaded guilty to three or more prior violations of section 4511.19 of the Revised Code or a substantially equivalent municipal ordinance within the previous six years.

(e) The offender previously has been convicted of or pleaded guilty to three or more prior violations of division (A) of section 1547.11 of the Revised Code or of a substantially equivalent municipal ordinance within the previous six years.

(f) The offender previously has been convicted of or pleaded guilty to three or more prior violations of division (A)(3) of section 4561.15 of the Revised Code or of a substantially equivalent municipal ordinance within the previous six years.

(g) The offender previously has been convicted of or pleaded guilty to three or more prior violations of any combination of the offenses listed in division (B)(1)(d), (e), or (f) of this section.

(h) The offender previously has been convicted of or pleaded guilty to a second or subsequent felony violation of division (A) of section 4511.19 of the Revised Code.

(2) In addition to any other sanctions imposed pursuant to division (B)(1) of this section, the court shall impose upon the offender a class three suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(3) of section 4510.02 of the Revised Code or, if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense, a class two suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(2) of that section.

(C) (1) Whoever violates division (A)(2) or (3) of this section is guilty of vehicular assault and shall be punished as provided in divisions (C)(2) and (3) of this section.

(2) Except as otherwise provided in this division, vehicular assault committed in violation of division (A)(2) of this section is a felony of the fourth degree. Vehicular assault committed in violation of division (A)(2) of this section is a felony of the third degree if, at the time of the offense, the offender was driving under a suspension imposed under Chapter 4510. or any other provision of the Revised Code, if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense, or if, in the same course of conduct that resulted in the violation of division (A)(2) of this section, the offender also violated section 4549.02, 4549.021 [4549.02.1], or 4549.03 of the Revised Code.

In addition to any other sanctions imposed, the court shall impose upon the offender a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of section 4510.02 of the Revised Code or, if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense, a class three suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(3) of that section.

(3) Except as otherwise provided in this division, vehicular assault committed in violation of division (A)(3) of this section is a misdemeanor of the first degree. Vehicular assault committed in violation of division (A)(3) of this section is a felony of the fourth degree if, at the time of the offense, the offender was driving under a suspension imposed under Chapter 4510. or any other provision of the Revised Code or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense.

In addition to any other sanctions imposed, the court shall impose upon the offender a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of section 4510.02 of the Revised Code or, if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense, a class three suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(3) of section 4510.02 of the Revised Code.

(D) (1) The court shall impose a mandatory prison term on an offender who is convicted of or pleads guilty to a violation of division (A)(1) of this section.

(2) The court shall impose a mandatory prison term on an offender who is convicted of or pleads guilty to a violation of

division (A)(2) of this section or a felony violation of division (A)(3) of this section if either of the following applies:

(a) The offender previously has been convicted of or pleaded guilty to a violation of this section or section 2903.06 of the Revised Code.

(b) At the time of the offense, the offender was driving under suspension under Chapter 4510. or any other provision of the Revised Code.

(3) The court shall impose a mandatory jail term of at least seven days on an offender who is convicted of or pleads guilty to a misdemeanor violation of division (A)(3) of this section and may impose upon the offender a longer jail term as authorized pursuant to section 2929.24 of the Revised Code.

(E) Divisions (A)(2)(a) and (3) of this section do not apply in a particular construction zone unless signs of the type described in section 2903.081 [2903.08.1] of the Revised Code are erected in that construction zone in accordance with the guidelines and design specifications established by the director of transportation under section 5501.27 of the Revised Code. The failure to erect signs of the type described in section 2903.081 [2903.08.1] of the Revised Code in a particular construction zone in accordance with those guidelines and design specifications does not limit or affect the application of division (A)(1) or (2)(b) of this section in that construction zone or the prosecution of any person who violates either of those divisions in that construction zone.

(F) As used in this section:

(1) "Mandatory prison term" and "mandatory jail term" have the same meanings as in section 2929.01 of the Revised Code.

(2) "Traffic-related homicide, manslaughter, or assault offense" has the same meaning as in section 2903.06 of the Revised Code.

(3) "Construction zone" has the same meaning as in section 5501.27 of the Revised Code.

(4) "Reckless operation offense" and "speeding offense" have the same meanings as in section 2903.06 of the Revised Code.

(G) For the purposes of this section, when a penalty or suspension is enhanced because of a prior or current violation of a specified law or a prior or current specified offense, the reference to the violation of the specified law or the specified offense includes any violation of any substantially equivalent municipal ordinance, former law of this state, or current or former law of another state or the United States.

§ 2935.33. Commitment of alcoholics and intoxicated persons for inpatient care

(A) If a person charged with a misdemeanor is taken before a judge of a court of record and if it appears to the judge that the person is an alcoholic or is suffering from acute alcohol intoxication and that the person would benefit from services provided by an alcohol and drug addiction program certified under Chapter 3793. of the Revised Code, the judge may place the person temporarily in a program certified under that chapter in the area in which the court has jurisdiction for inpatient care and treatment for an indefinite period not exceeding five days. The commitment does not limit the right to release on bail. The judge may dismiss a charge of a violation of division (B) of section 2917.11 of the Revised Code or

of a municipal ordinance substantially equivalent to that division if the defendant complies with all the conditions of treatment ordered by the court.

The court may order that any fines or court costs collected by the court from defendants who have received inpatient care from an alcohol and drug addiction program be paid, for the benefit of the program, to the board of alcohol, drug addiction, and mental health services of the alcohol, drug addiction, and mental health service district in which the program is located or to the director of alcohol and drug addiction services.

(B) If a person is being sentenced for a violation of division (B) of section 2917.11 or section 4511.19 of the Revised Code, a misdemeanor violation of section 2919.25 of the Revised Code, a misdemeanor violation of section 2919.27 of the Revised Code involving a protection order issued or consent agreement approved pursuant to section 2919.26 or 3113.31 of the Revised Code, or a violation of a municipal ordinance substantially equivalent to that division or any of those sections and if it appears to the judge at the time of sentencing that the person is an alcoholic or is suffering from acute alcohol intoxication and that, in lieu of imprisonment, the person would benefit from services provided by an alcohol and drug addiction program certified under Chapter 3793. of the Revised Code, the court may commit the person to close supervision in any facility in the area in which the court has jurisdiction that is, or is operated by, such a program. Such close supervision may include outpatient services and part-time release, except that a person convicted of a violation of division (A) of section 4511.19 of the Revised Code shall be confined to the facility for at least three days and except that a person convicted of a misdemeanor violation of section 2919.25 of the Revised Code, a misdemeanor violation of section 2919.27 of the Revised Code involving a protection order issued or consent agreement approved pursuant to section 2919.26 or 3113.31 of the Revised Code, or a violation of a substantially equivalent municipal ordinance shall be confined to the facility in accordance with the order of commitment. A commitment of a person to a facility for purposes of close supervision shall not exceed the maximum term for which the person could be imprisoned.

(C) A law enforcement officer who finds a person subject to prosecution for violation of division (B) of section 2917.11 of the Revised Code or a municipal ordinance substantially equivalent to that division and who has reasonable cause to believe that the person is an alcoholic or is suffering from acute alcohol intoxication and would benefit from immediate treatment immediately may place the person in an alcohol and drug addiction program certified under Chapter 3793. of the Revised Code in the area in which the person is found, for emergency treatment, in lieu of other arrest procedures, for a maximum period of forty-eight hours. During that time, if the person desires to leave such custody, the person shall be released forthwith.

(D) As used in this section:

(1) "Alcoholic" has the same meaning as in section 3793.01 of the Revised Code;

(2) "Acute alcohol intoxication" means a heavy consumption of alcohol over a relatively short period of time, resulting in dysfunction of the brain centers controlling behavior, speech, and memory and causing characteristic withdrawal symptoms.

§ 4301.64. Prohibition against consumption in motor vehicle

No person shall consume any beer or intoxicating liquor in a motor vehicle. This section does not apply to persons described in division (D) of section 4301.62 of the Revised Code.

§ 4510.44. Immobilizing or disabling device violation

(A) (1) No offender with limited driving privileges, during any period that the offender is required to operate only a motor vehicle equipped with an immobilizing or disabling device, shall request or permit any other person to breathe into the device if it is an ignition interlock device or another type of device that monitors the concentration of alcohol in a person's breath or to otherwise start the motor vehicle equipped with the device, for the purpose of providing the offender with an operable motor vehicle.

(2) (a) Except as provided in division (A)(2)(b) of this section, no person shall breathe into an immobilizing or disabling device that is an ignition interlock device or another type of device that monitors the concentration of alcohol in a person's breath or otherwise start a motor vehicle equipped with an immobilizing or disabling device, for the purpose of providing an operable motor vehicle to an offender with limited driving privileges who is permitted to operate only a motor vehicle equipped with an immobilizing or disabling device.

(b) Division (A)(2)(a) of this section does not apply to a person in the following circumstances:

(i) The person is an offender with limited driving privileges.

(ii) The person breathes into an immobilizing or disabling device that is an ignition interlock device or another type of device that monitors the concentration of alcohol in a person's breath or otherwise starts a motor vehicle equipped with an immobilizing or disabling device.

(iii) The person breathes into the device or starts the vehicle for the purpose of providing the person with an operable motor vehicle.

(3) No unauthorized person shall tamper with or circumvent the operation of an immobilizing or disabling device.

(B) Whoever violates this section is guilty of an immobilizing or disabling device violation, a misdemeanor of the first degree.

§ 4511.19. Driving while under the influence of alcohol or drugs or with certain concentration of alcohol in bodily substances; chemical analysis

(A) (1) No person shall operate any vehicle, streetcar, or trackless trolley within this state, if, at the time of the operation, any of the following apply:

(a) The person is under the influence of alcohol, a drug of abuse, or a combination of them.

(b) The person has a concentration of eight-hundredths of one per cent or more but less than seventeen-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.

(c) The person has a concentration of ninety-six-thousandths of one per cent or more but less than two hundred four-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.

(d) The person has a concentration of eight-hundredths of one gram or more but less than seventeen-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.

(e) The person has a concentration of eleven-hundredths of one gram or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

(f) The person has a concentration of seventeen-hundredths of one per cent or more by weight per unit volume of alcohol in the person's whole blood.

(g) The person has a concentration of two hundred four-thousandths of one per cent or more by weight per unit volume of alcohol in the person's blood serum or plasma.

(h) The person has a concentration of seventeen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath.

(i) The person has a concentration of two hundred thirty-eight-thousandths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine.

(2) No person who, within twenty years of the conduct described in division (A)(2)(a) of this section, previously has been convicted of or pleaded guilty to a violation of this division, division (A)(1) or (B) of this section, or a municipal OVI offense shall do both of the following:

(a) Operate any vehicle, streetcar, or trackless trolley within this state while under the influence of alcohol, a drug of abuse, or a combination of them;

(b) Subsequent to being arrested for operating the vehicle, streetcar, or trackless trolley as described in division (A)(2)(a) of this section, being asked by a law enforcement officer to submit to a chemical test or tests under section 4511.191 [4511.19.1] of the Revised Code, and being advised by the officer in accordance with section 4511.192 [4511.19.2] of the Revised Code of the consequences of the person's refusal or submission to the test or tests, refuse to submit to the test or tests.

(B) No person under twenty-one years of age shall operate any vehicle, streetcar, or trackless trolley within this state, if, at the time of the operation, any of the following apply:

(1) The person has a concentration of at least two-hundredths of one per cent but less than eight-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.

(2) The person has a concentration of at least three-hundredths of one per cent but less than ninety-six-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.

(3) The person has a concentration of at least two-hundredths of one gram but less than eight-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.

(4) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than eleven-hundredths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

(C) In any proceeding arising out of one incident, a person may be charged with a violation of division (A)(1)(a) or (A)(2) and a violation of division (B)(1), (2), or (3) of this section, but the person may not be convicted of more than one

violation of these divisions.

(D) (1) In any criminal prosecution or juvenile court proceeding for a violation of division (A) or (B) of this section or for an equivalent offense, the court may admit evidence on the concentration of alcohol, drugs of abuse, or a combination of them in the defendant's whole blood, blood serum or plasma, breath, urine, or other bodily substance at the time of the alleged violation as shown by chemical analysis of the substance withdrawn within two hours of the time of the alleged violation.

When a person submits to a blood test at the request of a law enforcement officer under section 4511.191 [4511.19.1] of the Revised Code, only a physician, a registered nurse, or a qualified technician, chemist, or phlebotomist shall withdraw blood for the purpose of determining the alcohol, drug, or alcohol and drug content of the whole blood, blood serum, or blood plasma. This limitation does not apply to the taking of breath or urine specimens. A person authorized to withdraw blood under this division may refuse to withdraw blood under this division, if in that person's opinion, the physical welfare of the person would be endangered by the withdrawing of blood.

The bodily substance withdrawn shall be analyzed in accordance with methods approved by the director of health by an individual possessing a valid permit issued by the director pursuant to section 3701.143 [3701.14.3] of the Revised Code.

(2) In a criminal prosecution or juvenile court proceeding for a violation of division (A) of this section or for an equivalent offense, if there was at the time the bodily substance was withdrawn a concentration of less than the applicable concentration of alcohol specified in divisions (A)(1)(b), (c), (d), and (e) of this section, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This division does not limit or affect a criminal prosecution or juvenile court proceeding for a violation of division (B) of this section or for an equivalent offense that is substantially equivalent to that division.

(3) Upon the request of the person who was tested, the results of the chemical test shall be made available to the person or the person's attorney, immediately upon the completion of the chemical test analysis.

The person tested may have a physician, a registered nurse, or a qualified technician, chemist, or phlebotomist of the person's own choosing administer a chemical test or tests, at the person's expense, in addition to any administered at the request of a law enforcement officer. The form to be read to the person to be tested, as required under section 4511.192 [4511.19.2] of the Revised Code, shall state that the person may have an independent test performed at the person's expense. The failure or inability to obtain an additional chemical test by a person shall not preclude the admission of evidence relating to the chemical test or tests taken at the request of a law enforcement officer.

(4) (a) As used in divisions (D)(4)(b) and (c) of this section, "national highway traffic safety administration" means the national highway traffic safety administration established as an administration of the United States department of transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105.

(b) In any criminal prosecution or juvenile court proceeding for a violation of division (A) or (B) of this section, of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or of a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, if a law enforcement officer has administered a field sobriety test to the operator of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in

effect that were set by the national highway traffic safety administration, all of the following apply:

(i) The officer may testify concerning the results of the field sobriety test so administered.

(ii) The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.

(iii) If testimony is presented or evidence is introduced under division (D)(4)(b)(i) or (ii) of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.

(c) Division (D)(4)(b) of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by probable cause or its determination of any other matter in a criminal prosecution or juvenile court proceeding of a type described in that division, from considering evidence or testimony that is not otherwise disallowed by division (D)(4)(b) of this section.

(E) (1) Subject to division (E)(3) of this section, in any criminal prosecution or juvenile court proceeding for a violation of division (A)(1)(b), (c), (d), (e), (f), (g), (h), or (i) or (B)(1), (2), (3), or (4) of this section or for an equivalent offense that is substantially equivalent to any of those divisions, a laboratory report from any forensic laboratory certified by the department of health that contains an analysis of the whole blood, blood serum or plasma, breath, urine, or other bodily substance tested and that contains all of the information specified in this division shall be admitted as prima-facie evidence of the information and statements that the report contains. The laboratory report shall contain all of the following:

(a) The signature, under oath, of any person who performed the analysis;

(b) Any findings as to the identity and quantity of alcohol, a drug of abuse, or a combination of them that was found;

(c) A copy of a notarized statement by the laboratory director or a designee of the director that contains the name of each certified analyst or test performer involved with the report, the analyst's or test performer's employment relationship with the laboratory that issued the report, and a notation that performing an analysis of the type involved is part of the analyst's or test performer's regular duties;

(d) An outline of the analyst's or test performer's education, training, and experience in performing the type of analysis involved and a certification that the laboratory satisfies appropriate quality control standards in general and, in this particular analysis, under rules of the department of health.

(2) Notwithstanding any other provision of law regarding the admission of evidence, a report of the type described in division (E)(1) of this section is not admissible against the defendant to whom it pertains in any proceeding, other than a preliminary hearing or a grand jury proceeding, unless the prosecutor has served a copy of the report on the defendant's attorney or, if the defendant has no attorney, on the defendant.

(3) A report of the type described in division (E)(1) of this section shall not be prima-facie evidence of the contents, identity, or amount of any substance if, within seven days after the defendant to whom the report pertains or the defendant's attorney receives a copy of the report, the defendant or the defendant's attorney demands the testimony of the person who signed the report. The judge in the case may extend the seven-day time limit in the interest of justice.

(F) Except as otherwise provided in this division, any physician, registered nurse, or qualified technician, chemist, or phlebotomist who withdraws blood from a person pursuant to this section, and any hospital, first-aid station, or clinic at which blood is withdrawn from a person pursuant to this section, is immune from criminal liability and civil liability based upon a claim of assault and battery or any other claim that is not a claim of malpractice, for any act performed in withdrawing blood from the person. The immunity provided in this division is not available to a person who withdraws blood if the person engages in willful or wanton misconduct.

(G) (1) Whoever violates any provision of divisions (A)(1)(a) to (i) or (A)(2) of this section is guilty of operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them. The court shall sentence the offender under Chapter 2929. of the Revised Code, except as otherwise authorized or required by divisions (G)(1)(a) to (e) of this section:

(a) Except as otherwise provided in division (G)(1)(b), (c), (d), or (e) of this section, the offender is guilty of a misdemeanor of the first degree, and the court shall sentence the offender to all of the following:

(i) If the sentence is being imposed for a violation of division (A)(1)(a), (b), (c), (d), or (e) of this section, a mandatory jail term of three consecutive days. As used in this division, three consecutive days means seventy-two consecutive hours. The court may sentence an offender to both an intervention program and a jail term. The court may impose a jail term in addition to the three-day mandatory jail term or intervention program. However, in no case shall the cumulative jail term imposed for the offense exceed six months.

The court may suspend the execution of the three-day jail term under this division if the court, in lieu of that suspended term, places the offender under a community control sanction pursuant to section 2929.25 of the Revised Code and requires the offender to attend, for three consecutive days, a drivers' intervention program certified under section 3793.10 of the Revised Code. The court also may suspend the execution of any part of the three-day jail term under this division if it places the offender under a community control sanction pursuant to section 2929.25 of the Revised Code for part of the three days, requires the offender to attend for the suspended part of the term a drivers' intervention program so certified, and sentences the offender to a jail term equal to the remainder of the three consecutive days that the offender does not spend attending the program. The court may require the offender, as a condition of community control and in addition to the required attendance at a drivers' intervention program, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Chapter 3793. of the Revised Code by the director of alcohol and drug addiction services that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose on the offender any other conditions of community control that it considers necessary.

(ii) If the sentence is being imposed for a violation of division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this section, except as otherwise provided in this division, a mandatory jail term of at least three consecutive days and a requirement that the offender attend, for three consecutive days, a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code. As used in this division, three consecutive days means seventy-two consecutive hours. If the court determines that the offender is not conducive to treatment in a drivers' intervention program, if the offender refuses to attend a drivers' intervention program, or if the jail at which the offender is to serve the jail term imposed can provide a driver's intervention program, the court shall sentence the offender to a mandatory jail term of at least six consecutive days.

The court may require the offender, under a community control sanction pursuant to section 2929.25 of the Revised Code, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Chapter 3793. of the Revised Code by the director of alcohol and drug addiction services, in addition to the required attendance at drivers' intervention program, that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose any other conditions of community control on the offender that it considers necessary.

(iii) In all cases, a fine of not less than two hundred fifty and not more than one thousand dollars;

(iv) In all cases, a class five license suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(5) of section 4510.02 of the Revised Code. The court may grant limited driving privileges relative to the suspension under sections 4510.021 [4510.02.1] and 4510.13 of the Revised Code.

(b) Except as otherwise provided in division (G)(1)(e) of this section, an offender who, within six years of the offense, previously has been convicted of or pleaded guilty to one violation of division (A) or (B) of this section or one other equivalent offense is guilty of a misdemeanor of the first degree. The court shall sentence the offender to all of the following:

(i) If the sentence is being imposed for a violation of division (A)(1)(a), (b), (c), (d), or (e) of this section, a mandatory jail term of ten consecutive days. The court shall impose the ten-day mandatory jail term under this division unless, subject to division (G)(3) of this section, it instead imposes a sentence under that division consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the ten-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months.

In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court may require the offender to attend a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code. If the operator of the program determines that the offender is alcohol dependent, the program shall notify the court, and, subject to division (I) of this section, the court shall order the offender to obtain treatment through an alcohol and drug addiction program authorized by section 3793.02 of the Revised Code.

(ii) If the sentence is being imposed for a violation of division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this section, except as otherwise provided in this division, a mandatory jail term of twenty consecutive days. The court shall impose the twenty-day mandatory jail term under this division unless, subject to division (G)(3) of this section, it instead imposes a sentence under that division consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the twenty-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months.

In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court may require the offender to attend a driver's intervention program that is certified pursuant to section 3793.10 of the Revised Code. If the operator of the program determines that the offender is alcohol dependent, the program shall notify the court, and, subject to division (I) of this section, the court

shall order the offender to obtain treatment through an alcohol and drug addiction program authorized by section 3793.02 of the Revised Code.

(iii) In all cases, notwithstanding the fines set forth in Chapter 2929. of the Revised Code, a fine of not less than three hundred fifty and not more than one thousand five hundred dollars;

(iv) In all cases, a class four license suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of section 4510.02 of the Revised Code. The court may grant limited driving privileges relative to the suspension under sections 4510.021 [4510.02.1] and 4510.13 of the Revised Code.

(v) In all cases, if the vehicle is registered in the offender's name, immobilization of the vehicle involved in the offense for ninety days in accordance with section 4503.233 [4503.23.3] of the Revised Code and impoundment of the license plates of that vehicle for ninety days.

(c) Except as otherwise provided in division (G)(1)(e) of this section, an offender who, within six years of the offense, previously has been convicted of or pleaded guilty to two violations of division (A) or (B) of this section or other equivalent offenses is guilty of a misdemeanor. The court shall sentence the offender to all of the following:

(i) If the sentence is being imposed for a violation of division (A)(1)(a), (b), (c), (d), or (e) of this section, a mandatory jail term of thirty consecutive days. The court shall impose the thirty-day mandatory jail term under this division unless, subject to division (G)(3) of this section, it instead imposes a sentence under that division consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the thirty-day mandatory jail term. Notwithstanding the jail terms set forth in sections 2929.21 to 2929.28 of the Revised Code, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.

(ii) If the sentence is being imposed for a violation of division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this section, a mandatory jail term of sixty consecutive days. The court shall impose the sixty-day mandatory jail term under this division unless, subject to division (G)(3) of this section, it instead imposes a sentence under that division consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the sixty-day mandatory jail term. Notwithstanding the jail terms set forth in sections 2929.21 to 2929.28 of the Revised Code, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.

(iii) In all cases, notwithstanding the fines set forth in Chapter 2929. of the Revised Code, a fine of not less than five hundred fifty and not more than two thousand five hundred dollars;

(iv) In all cases, a class three license suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(3) of section 4510.02 of the Revised Code. The court may grant limited driving privileges relative to the suspension under sections 4510.021 [4510.02.1] and 4510.13 of the Revised Code.

(v) In all cases, if the vehicle is registered in the offender's name, criminal forfeiture of the vehicle involved in the

offense in accordance with section 4503.234 [4503.23.4] of the Revised Code. Division (G)(6) of this section applies regarding any vehicle that is subject to an order of criminal forfeiture under this division.

(vi) In all cases, participation in an alcohol and drug addiction program authorized by section 3793.02 of the Revised Code, subject to division (I) of this section.

(d) Except as otherwise provided in division (G)(1)(e) of this section, an offender who, within six years of the offense, previously has been convicted of or pleaded guilty to three or four violations of division (A) or (B) of this section or other equivalent offenses or an offender who, within twenty years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature is guilty of a felony of the fourth degree. The court shall sentence the offender to all of the following:

(i) If the sentence is being imposed for a violation of division (A)(1)(a), (b), (c), (d), or (e) of this section, a mandatory prison term of one, two, three, four, or five years as required by and in accordance with division (G)(2) of section 2929.13 of the Revised Code if the offender also is convicted of or also pleads guilty to a specification of the type described in section 2941.1413 [2941.14.13] of the Revised Code or, in the discretion of the court, either a mandatory term of local incarceration of sixty consecutive days in accordance with division (G)(1) of section 2929.13 of the Revised Code or a mandatory prison term of sixty consecutive days in accordance with division (G)(2) of that section if the offender is not convicted of and does not plead guilty to a specification of that type. If the court imposes a mandatory term of local incarceration, it may impose a jail term in addition to the sixty-day mandatory term, the cumulative total of the mandatory term and the jail term for the offense shall not exceed one year, and, except as provided in division (A)(1) of section 2929.13 of the Revised Code, no prison term is authorized for the offense. If the court imposes a mandatory prison term, notwithstanding division (A)(4) of section 2929.14 of the Revised Code, it also may sentence the offender to a definite prison term that shall be not less than six months and not more than thirty months and the prison terms shall be imposed as described in division (G)(2) of section 2929.13 of the Revised Code. If the court imposes a mandatory prison term or mandatory prison term and additional prison term, in addition to the term or terms so imposed, the court also may sentence the offender to a community control sanction for the offense, but the offender shall serve all of the prison terms so imposed prior to serving the community control sanction.

(ii) If the sentence is being imposed for a violation of division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this section, a mandatory prison term of one, two, three, four, or five years as required by and in accordance with division (G)(2) of section 2929.13 of the Revised Code if the offender also is convicted of or also pleads guilty to a specification of the type described in section 2941.1413 [2941.14.13] of the Revised Code or, in the discretion of the court, either a mandatory term of local incarceration of one hundred twenty consecutive days in accordance with division (G)(1) of section 2929.13 of the Revised Code or a mandatory prison term of one hundred twenty consecutive days in accordance with division (G)(2) of that section if the offender is not convicted of and does not plead guilty to a specification of that type. If the court imposes a mandatory term of local incarceration, it may impose a jail term in addition to the one hundred twenty-day mandatory term, the cumulative total of the mandatory term and the jail term for the offense shall not exceed one year, and, except as provided in division (A)(1) of section 2929.13 of the Revised Code, no prison term is authorized for the offense. If the court imposes a mandatory prison term, notwithstanding division (A)(4) of section 2929.14 of the Revised Code, it also may sentence the offender to a definite prison term that shall be not less than six months and not more than thirty months and the prison terms shall be imposed as described in division (G)(2) of section 2929.13 of the Revised Code. If the court imposes a mandatory prison term or mandatory prison term and additional prison term, in addition to the term or terms so imposed, the court also may sentence the offender to a community control sanction for the offense, but the offender shall serve all of the prison terms so imposed prior to serving the community control sanction.

(iii) In all cases, notwithstanding section 2929.18 of the Revised Code, a fine of not less than eight hundred nor more than ten thousand dollars;

(iv) In all cases, a class two license suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(2) of section 4510.02 of the Revised Code. The court may grant limited driving privileges relative to the suspension under sections 4510.021 [4510.02.1] and 4510.13 of the Revised Code.

(v) In all cases, if the vehicle is registered in the offender's name, criminal forfeiture of the vehicle involved in the offense in accordance with section 4503.234 [4503.23.4] of the Revised Code. Division (G)(6) of this section applies regarding any vehicle that is subject to an order of criminal forfeiture under this division.

(vi) In all cases, participation in an alcohol and drug addiction program authorized by section 3793.02 of the Revised Code, subject to division (I) of this section.

(vii) In all cases, if the court sentences the offender to a mandatory term of local incarceration, in addition to the mandatory term, the court, pursuant to section 2929.17 of the Revised Code, may impose a term of house arrest with electronic monitoring. The term shall not commence until after the offender has served the mandatory term of local incarceration.

(e) An offender who previously has been convicted of or pleaded guilty to a violation of division (A) of this section that was a felony, regardless of when the violation and the conviction or guilty plea occurred, is guilty of a felony of the third degree. The court shall sentence the offender to all of the following:

(i) If the offender is being sentenced for a violation of division (A)(1)(a), (b), (c), (d), or (e) of this section, a mandatory prison term of one, two, three, four, or five years as required by and in accordance with division (G)(2) of section 2929.13 of the Revised Code if the offender also is convicted of or also pleads guilty to a specification of the type described in section 2941.1413 [2941.14.13] of the Revised Code or a mandatory prison term of sixty consecutive days in accordance with division (G)(2) of section 2929.13 of the Revised Code if the offender is not convicted of and does not plead guilty to a specification of that type. The court may impose a prison term in addition to the mandatory prison term. The cumulative total of a sixty-day mandatory prison term and the additional prison term for the offense shall not exceed five years. In addition to the mandatory prison term or mandatory prison term and additional prison term the court imposes, the court also may sentence the offender to a community control sanction for the offense, but the offender shall serve all of the prison terms so imposed prior to serving the community control sanction.

(ii) If the sentence is being imposed for a violation of division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this section, a mandatory prison term of one, two, three, four, or five years as required by and in accordance with division (G)(2) of section 2929.13 of the Revised Code if the offender also is convicted of or also pleads guilty to a specification of the type described in section 2941.1413 [2941.14.13] of the Revised Code or a mandatory prison term of one hundred twenty consecutive days in accordance with division (G)(2) of section 2929.13 of the Revised Code if the offender is not convicted of and does not plead guilty to a specification of that type. The court may impose a prison term in addition to the mandatory prison term. The cumulative total of a one hundred twenty-day mandatory prison term and the additional prison term for the offense shall not exceed five years. In addition to the mandatory prison term or mandatory prison term and additional prison term the court imposes, the court also may sentence the offender to a community control sanction for the offense, but the offender shall serve all of the prison terms so imposed prior to serving the community

control sanction.

(iii) In all cases, notwithstanding section 2929.18 of the Revised Code, a fine of not less than eight hundred nor more than ten thousand dollars;

(iv) In all cases, a class two license suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(2) of section 4510.02 of the Revised Code. The court may grant limited driving privileges relative to the suspension under sections 4510.021 [4510.02.1] and 4510.13 of the Revised Code.

(v) In all cases, if the vehicle is registered in the offender's name, criminal forfeiture of the vehicle involved in the offense in accordance with section 4503.234 [4503.23.4] of the Revised Code. Division (G)(6) of this section applies regarding any vehicle that is subject to an order of criminal forfeiture under this division.

(vi) In all cases, participation in an alcohol and drug addiction program authorized by section 3793.02 of the Revised Code, subject to division (I) of this section.

(2) An offender who is convicted of or pleads guilty to a violation of division (A) of this section and who subsequently seeks reinstatement of the driver's or occupational driver's license or permit or nonresident operating privilege suspended under this section as a result of the conviction or guilty plea shall pay a reinstatement fee as provided in division (F)(2) of section 4511.191 [4511.19.1] of the Revised Code.

(3) If an offender is sentenced to a jail term under division (G)(1)(b)(i) or (ii) or (G)(1)(c)(i) or (ii) of this section and if, within sixty days of sentencing of the offender, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the term, the offender will not be able to begin serving that term within the sixty-day period following the date of sentencing, the court may impose an alternative sentence under this division that includes a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring.

As an alternative to a mandatory jail term of ten consecutive days required by division (G)(1)(b)(i) of this section, the court, under this division, may sentence the offender to five consecutive days in jail and not less than eighteen consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the five consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed six months. The five consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to the mandatory jail term of twenty consecutive days required by division (G)(1)(b)(ii) of this section, the court, under this division, may sentence the offender to ten consecutive days in jail and not less than thirty-six consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the ten consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed six months. The ten consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to a mandatory jail term of thirty consecutive days required by division (G)(1)(c)(i) of this section, the court, under this division, may sentence the offender to fifteen consecutive days in jail and not less than fifty-five consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic

monitoring and continuous alcohol monitoring. The cumulative total of the fifteen consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed one year. The fifteen consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to the mandatory jail term of sixty consecutive days required by division (G)(1)(c)(ii) of this section, the court, under this division, may sentence the offender to thirty consecutive days in jail and not less than one hundred ten consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the thirty consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed one year. The thirty consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

(4) If an offender's driver's or occupational driver's license or permit or nonresident operating privilege is suspended under division (G) of this section and if section 4510.13 of the Revised Code permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance with that section. If division (A)(7) of that section requires that the court impose as a condition of the privileges that the offender must display on the vehicle that is driven subject to the privileges restricted license plates that are issued under section 4503.231 [4503.23.1] of the Revised Code, except as provided in division (B) of that section, the court shall impose that condition as one of the conditions of the limited driving privileges granted to the offender, except as provided in division (B) of section 4503.231 [4503.23.1] of the Revised Code.

(5) Fines imposed under this section for a violation of division (A) of this section shall be distributed as follows:

(a) Twenty-five dollars of the fine imposed under division (G)(1)(a)(iii), thirty-five dollars of the fine imposed under division (G)(1)(b)(iii), one hundred twenty-three dollars of the fine imposed under division (G)(1)(c)(iii), and two hundred ten dollars of the fine imposed under division (G)(1)(d)(iii) or (e)(iii) of this section shall be paid to an enforcement and education fund established by the legislative authority of the law enforcement agency in this state that primarily was responsible for the arrest of the offender, as determined by the court that imposes the fine. The agency shall use this share to pay only those costs it incurs in enforcing this section or a municipal OVI ordinance and in informing the public of the laws governing the operation of a vehicle while under the influence of alcohol, the dangers of the operation of a vehicle under the influence of alcohol, and other information relating to the operation of a vehicle under the influence of alcohol and the consumption of alcoholic beverages.

(b) Fifty dollars of the fine imposed under division (G)(1)(a)(iii) of this section shall be paid to the political subdivision that pays the cost of housing the offender during the offender's term of incarceration. If the offender is being sentenced for a violation of division (A)(1)(a), (b), (c), (d), or (e) of this section and was confined as a result of the offense prior to being sentenced for the offense but is not sentenced to a term of incarceration, the fifty dollars shall be paid to the political subdivision that paid the cost of housing the offender during that period of confinement. The political subdivision shall use the share under this division to pay or reimburse incarceration or treatment costs it incurs in housing or providing drug and alcohol treatment to persons who violate this section or a municipal OVI ordinance, costs of any immobilizing or disabling device used on the offender's vehicle, and costs of electronic house arrest equipment needed for persons who violate this section.

(c) Twenty-five dollars of the fine imposed under division (G)(1)(a)(iii) and fifty dollars of the fine imposed under division (G)(1)(b)(iii) of this section shall be deposited into the county or municipal indigent drivers' alcohol treatment

fund under the control of that court, as created by the county or municipal corporation under division (N) of section 4511.191 [4511.19.1] of the Revised Code.

(d) One hundred fifteen dollars of the fine imposed under division (G)(1)(b)(iii), two hundred seventy-seven dollars of the fine imposed under division (G)(1)(c)(iii), and four hundred forty dollars of the fine imposed under division (G)(1)(d)(iii) or (e)(iii) of this section shall be paid to the political subdivision that pays the cost of housing the offender during the offender's term of incarceration. The political subdivision shall use this share to pay or reimburse incarceration or treatment costs it incurs in housing or providing drug and alcohol treatment to persons who violate this section or a municipal OVI ordinance, costs for any immobilizing or disabling device used on the offender's vehicle, and costs of electronic house arrest equipment needed for persons who violate this section.

(e) The balance of the fine imposed under division (G)(1)(a)(iii), (b)(iii), (c)(iii), (d)(iii), or (e)(iii) of this section shall be disbursed as otherwise provided by law.

(6) If title to a motor vehicle that is subject to an order of criminal forfeiture under division (G)(1)(c), (d), or (e) of this section is assigned or transferred and division (B)(2) or (3) of section 4503.234 [4503.23.4] of the Revised Code applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national auto dealers association. The proceeds of any fine so imposed shall be distributed in accordance with division (C)(2) of that section.

(7) As used in division (G) of this section, "electronic monitoring," "mandatory prison term," and "mandatory term of local incarceration" have the same meanings as in section 2929.01 of the Revised Code.

(H) Whoever violates division (B) of this section is guilty of operating a vehicle after underage alcohol consumption and shall be punished as follows:

(1) Except as otherwise provided in division (H)(2) of this section, the offender is guilty of a misdemeanor of the fourth degree. In addition to any other sanction imposed for the offense, the court shall impose a class six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(6) of section 4510.02 of the Revised Code.

(2) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one or more violations of division (A) or (B) of this section or other equivalent offense, the offender is guilty of a misdemeanor of the third degree. In addition to any other sanction imposed for the offense, the court shall impose a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of section 4510.02 of the Revised Code.

(3) If the offender also is convicted of or also pleads guilty to a specification of the type described in section 2941.1416 [2941.14.16] of the Revised Code and if the court imposes a jail term for the violation of division (B) of this section, the court shall impose upon the offender an additional definite jail term pursuant to division (E) of section 2929.24 of the Revised Code.

(I) (1) No court shall sentence an offender to an alcohol treatment program under this section unless the treatment program complies with the minimum standards for alcohol treatment programs adopted under Chapter 3793. of the Revised Code by the director of alcohol and drug addiction services.

(2) An offender who stays in a drivers' intervention program or in an alcohol treatment program under an order issued under this section shall pay the cost of the stay in the program. However, if the court determines that an offender who stays in an alcohol treatment program under an order issued under this section is unable to pay the cost of the stay in the program, the court may order that the cost be paid from the court's indigent drivers' alcohol treatment fund.

(J) If a person whose driver's or commercial driver's license or permit or nonresident operating privilege is suspended under this section files an appeal regarding any aspect of the person's trial or sentence, the appeal itself does not stay the operation of the suspension.

(K) All terms defined in section 4510.01 of the Revised Code apply to this section. If the meaning of a term defined in section 4510.01 of the Revised Code conflicts with the meaning of the same term as defined in section 4501.01 or 4511.01 of the Revised Code, the term as defined in section 4510.01 of the Revised Code applies to this section.

(L) (1) The Ohio Traffic Rules in effect on January 1, 2004, as adopted by the supreme court under authority of section 2937.46 of the Revised Code, do not apply to felony violations of this section. Subject to division (L)(2) of this section, the Rules of Criminal Procedure apply to felony violations of this section.

(2) If, on or after January 1, 2004, the supreme court modifies the Ohio Traffic Rules to provide procedures to govern felony violations of this section, the modified rules shall apply to felony violations of this section.

§ 4511.191. Implied consent

(A) (1) "Physical control" has the same meaning as in section 4511.194 [4511.19.4] of the Revised Code.

(2) Any person who operates a vehicle, streetcar, or trackless trolley upon a highway or any public or private property used by the public for vehicular travel or parking within this state or who is in physical control of a vehicle, streetcar, or trackless trolley shall be deemed to have given consent to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine to determine the alcohol, drug, or alcohol and drug content of the person's whole blood, blood serum or plasma, breath, or urine if arrested for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 [4511.19.4] of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance.

(3) The chemical test or tests under division (A)(2) of this section shall be administered at the request of a law enforcement officer having reasonable grounds to believe the person was operating or in physical control of a vehicle, streetcar, or trackless trolley in violation of a division, section, or ordinance identified in division (A)(2) of this section. The law enforcement agency by which the officer is employed shall designate which of the tests shall be administered.

(4) Any person who is dead or unconscious, or who otherwise is in a condition rendering the person incapable of refusal, shall be deemed to have consented as provided in division (A)(2) of this section, and the test or tests may be administered, subject to sections 313.12 to 313.16 of the Revised Code.

(B) (1) Upon receipt of the sworn report of a law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 [4511.19.4] of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance that was completed and sent to the registrar and a court pursuant to section 4511.192 [4511.19.2] of the Revised Code in regard to a person who refused to take the designated chemical test, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's

license or permit or nonresident operating privilege was suspended by the arresting officer under this division and that section and the period of the suspension, as determined under this section. The suspension shall be subject to appeal as provided in section 4511.197 [4511.19.7] of the Revised Code. The suspension shall be for whichever of the following periods applies:

(a) Except when division (B)(1)(b), (c), or (d) of this section applies and specifies a different class or length of suspension, the suspension shall be a class C suspension for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code.

(b) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused one previous request to consent to a chemical test, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(c) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused two previous requests to consent to a chemical test, the suspension shall be a class A suspension imposed for the period of time specified in division (B)(1) of section 4510.02 of the Revised Code.

(d) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused three or more previous requests to consent to a chemical test, the suspension shall be for five years.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (B)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (B)(1) of this section.

(C) (1) Upon receipt of the sworn report of the law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance that was completed and sent to the registrar and a court pursuant to section 4511.192 [4511.19.2] of the Revised Code in regard to a person whose test results indicate that the person's whole blood, blood serum or plasma, breath, or urine contained at least the concentration of alcohol specified in division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the Revised Code, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and section 4511.192 [4511.19.2] of the Revised Code and the period of the suspension, as determined under divisions (F)(1) to (4) of this section. The suspension shall be subject to appeal as provided in section 4511.197 [4511.19.7] of the Revised Code. The suspension described in this division does not apply to, and shall not be imposed upon, a person arrested for a violation of section 4511.194 [4511.19.4] of the Revised Code or a substantially equivalent municipal ordinance who submits to a designated chemical test. The suspension shall be for whichever of the following periods applies:

(a) Except when division (C)(1)(b), (c), or (d) of this section applies and specifies a different period, the suspension shall be a class E suspension imposed for the period of time specified in division (B)(5) of section 4510.02 of the Revised Code.

(b) The suspension shall be a class C suspension for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code if the person has been convicted of or pleaded guilty to, within six years of the date the test was conducted, one violation of division (A) or (B) of section 4511.19 of the Revised Code or one other equivalent offense.

(c) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(d) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to more than two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class A suspension imposed for the period of time specified in Division (B)(1) of section 4510.02 of the Revised Code.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (C)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (C)(1) of this section.

(D) (1) A suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege under this section for the time described in division (B) or (C) of this section is effective immediately from the time at which the arresting officer serves the notice of suspension upon the arrested person. Any subsequent finding that the person is not guilty of the charge that resulted in the person being requested to take the chemical test or tests under division (A) of this section does not affect the suspension.

(2) If a person is arrested for operating a vehicle, streetcar, or trackless trolley in violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance, or for being in physical control of a vehicle, streetcar, or trackless trolley in violation of section 4511.194 [4511.19.7] of the Revised Code or a substantially equivalent municipal ordinance, regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under division (B) or (C) of this section or Chapter 4510. of the Revised Code, the person's initial appearance on the charge resulting from the arrest shall be held within five days of the person's arrest or the issuance of the citation to the person, subject to any continuance granted by the court pursuant to section 4511.197 [4511.19.7] of the Revised Code regarding the issues specified in that division.

(E) When it finally has been determined under the procedures of this section and sections 4511.192 [4511.19.2] through 4511.197 [4511.19.7] of the Revised Code that a nonresident's privilege to operate a vehicle within this state has been suspended, the registrar shall give information in writing of the action taken to the motor vehicle administrator of the

state of the person's residence and of any state in which the person has a license.

(F) At the end of a suspension period under this section, under section 4511.194 [4511.19.4], section 4511.196 [4511.19.6], or division (G) of section 4511.19 of the Revised Code, or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance and upon the request of the person whose driver's or commercial driver's license or permit was suspended and who is not otherwise subject to suspension, cancellation, or disqualification, the registrar shall return the driver's or commercial driver's license or permit to the person upon the occurrence of all of the conditions specified in divisions (F)(1) and (2) of this section:

(1) A showing that the person has proof of financial responsibility, a policy of liability insurance in effect that meets the minimum standards set forth in section 4509.51 of the Revised Code, or proof, to the satisfaction of the registrar, that the person is able to respond in damages in an amount at least equal to the minimum amounts specified in section 4509.51 of the Revised Code.

(2) Subject to the limitation contained in division (F)(3) of this section, payment by the person to the bureau of motor vehicles of a license reinstatement fee of four hundred twenty-five dollars, which fee shall be deposited in the state treasury and credited as follows:

(a) One hundred twelve dollars and fifty cents shall be credited to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code. The fund shall be used to pay the costs of driver treatment and intervention programs operated pursuant to sections 3793.02 and 3793.10 of the Revised Code. The director of alcohol and drug addiction services shall determine the share of the fund that is to be allocated to alcohol and drug addiction programs authorized by section 3793.02 of the Revised Code, and the share of the fund that is to be allocated to drivers' intervention programs authorized by section 3793.10 of the Revised Code.

(b) Seventy-five dollars shall be credited to the reparations fund created by section 2743.191 [2743.19.1] of the Revised Code.

(c) Thirty-seven dollars and fifty cents shall be credited to the indigent drivers alcohol treatment fund, which is hereby established. Except as otherwise provided in division (F)(2)(c) of this section, moneys in the fund shall be distributed by the department of alcohol and drug addiction services to the county indigent drivers alcohol treatment funds, the county juvenile indigent drivers alcohol treatment funds, and the municipal indigent drivers alcohol treatment funds that are required to be established by counties and municipal corporations pursuant to this section, and shall be used only to pay the cost of an alcohol and drug addiction treatment program attended by an offender or juvenile traffic offender who is ordered to attend an alcohol and drug addiction treatment program by a county, juvenile, or municipal court judge and who is determined by the county, juvenile, or municipal court judge not to have the means to pay for the person's attendance at the program or to pay the costs specified in division (H)(4) of this section in accordance with that division. Moneys in the fund that are not distributed to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund under division (H) of this section because the director of alcohol and drug addiction services does not have the information necessary to identify the county or municipal corporation where the offender or juvenile offender was arrested may be transferred by the director of budget and management to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code, upon certification of the amount by the director of alcohol and drug addiction services.

(d) Seventy-five dollars shall be credited to the Ohio rehabilitation services commission established by section 3304.12 of the Revised Code, to the services for rehabilitation fund, which is hereby established. The fund shall be used

to match available federal matching funds where appropriate, and for any other purpose or program of the commission to rehabilitate people with disabilities to help them become employed and independent.

(e) Seventy-five dollars shall be deposited into the state treasury and credited to the drug abuse resistance education programs fund, which is hereby established, to be used by the attorney general for the purposes specified in division (L)(4) of this section.

(f) Thirty dollars shall be credited to the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

(g) Twenty dollars shall be credited to the trauma and emergency medical services grants fund created by section 4513.263 [4513.26.3] of the Revised Code.

(3) If a person's driver's or commercial driver's license or permit is suspended under this section, under section 4511.196 [4511.19.6] or division (G) of section 4511.19 of the Revised Code, under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance or under any combination of the suspensions described in division (F)(3) of this section, and if the suspensions arise from a single incident or a single set of facts and circumstances, the person is liable for payment of, and shall be required to pay to the bureau, only one reinstatement fee of four hundred twenty-five dollars. The reinstatement fee shall be distributed by the bureau in accordance with division (F)(2) of this section.

(4) The attorney general shall use amounts in the drug abuse resistance education programs fund to award grants to law enforcement agencies to establish and implement drug abuse resistance education programs in public schools. Grants awarded to a law enforcement agency under this section shall be used by the agency to pay for not more than fifty per cent of the amount of the salaries of law enforcement officers who conduct drug abuse resistance education programs in public schools. The attorney general shall not use more than six per cent of the amounts the attorney general's office receives under division (F)(2)(e) of this section to pay the costs it incurs in administering the grant program established by division (F)(2)(e) of this section and in providing training and materials relating to drug abuse resistance education programs.

The attorney general shall report to the governor and the general assembly each fiscal year on the progress made in establishing and implementing drug abuse resistance education programs. These reports shall include an evaluation of the effectiveness of these programs.

(G) Suspension of a commercial driver's license under division (B) or (C) of this section shall be concurrent with any period of disqualification under section 3123.611 [3123.61.1] or 4506.16 of the Revised Code or any period of suspension under section 3123.58 of the Revised Code. No person who is disqualified for life from holding a commercial driver's license under section 4506.16 of the Revised Code shall be issued a driver's license under Chapter 4507. of the Revised Code during the period for which the commercial driver's license was suspended under division (B) or (C) of this section. No person whose commercial driver's license is suspended under division (B) or (C) of this section shall be issued a driver's license under chapter 4507. of the Revised Code during the period of the suspension.

(H) (1) Each county shall establish an indigent drivers alcohol treatment fund, each county shall establish a juvenile indigent drivers alcohol treatment fund, and each municipal corporation in which there is a municipal court shall establish an indigent drivers alcohol treatment fund. All revenue that the general assembly appropriates to the indigent drivers alcohol treatment fund for transfer to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, all portions of fees that are paid under

division (L) of this section and that are credited under that division to the indigent drivers alcohol treatment fund in the state treasury for a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, and all portions of fines that are specified for deposit into a county or municipal indigent drivers alcohol treatment fund by section 4511.193 [4511.19.3] of the Revised Code shall be deposited into that county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund in accordance with division (H)(2) of this section. Additionally, all portions of fines that are paid for a violation of section 4511.19 of the Revised Code or of any prohibition contained in chapter 4510. of the Revised Code, and that are required under section 4511.19 or any provisions of chapter 4510. of the Revised Code to be deposited into a county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund shall be deposited into the appropriate fund in accordance with the applicable division.

(2) That portion of the license reinstatement fee that is paid under division (F) of this section and that is credited under that division to the indigent drivers alcohol treatment fund shall be deposited into a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund as follows:

(a) If the suspension in question was imposed under this section, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person who was charged in a county court with the violation that resulted in the suspension, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person who was charged in a juvenile court with the violation that resulted in the suspension, the portion shall be deposited into the county juvenile indigent drivers alcohol treatment fund established in the county served by the court;

(iii) If the fee is paid by a person who was charged in a municipal court with the violation that resulted in the suspension, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(b) If the suspension in question was imposed under section 4511.19 of the Revised Code or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person whose license or permit was suspended by a county court, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person whose license or permit was suspended by a municipal court, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(3) Expenditures from a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund shall be made only upon the order of a county, juvenile, or municipal court judge and only for payment of the cost of the attendance at an alcohol and drug addiction treatment program of a person who is convicted of, or found to be a juvenile traffic offender by reason of, a violation of division (A) of section 4511.19 of the Revised Code or a substantially similar municipal ordinance, who is ordered by the court to attend the alcohol and drug addiction treatment program, and who is determined by the court to be unable to

pay the cost of attendance at the treatment program or for payment of the costs specified in division (H)(4) of this section in accordance with that division. The alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 [340.02.1] of the Revised Code and serving the alcohol, drug addiction, and mental health service district in which the court is located shall administer the indigent drivers alcohol treatment program of the court. When a court orders an offender or juvenile traffic offender to attend an alcohol and drug addiction treatment program, the board shall determine which program is suitable to meet the needs of the offender or juvenile traffic offender, and when a suitable program is located and space is available at the program, the offender or juvenile traffic offender shall attend the program designated by the board. A reasonable amount not to exceed five per cent of the amounts credited to and deposited into the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund serving every court whose program is administered by that board shall be paid to the board to cover the costs it incurs in administering those indigent drivers alcohol treatment programs.

(4) If a county, juvenile, or municipal court determines, in consultation with the alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 [340.02.1] of the Revised Code and serving the alcohol, drug addiction, and mental health district in which the court is located, that the funds in the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund under the control of the court are more than sufficient to satisfy the purpose for which the fund was established, as specified in divisions (H)(1) to (3) of this section, the court may declare a surplus in the fund. If the court declares a surplus in the fund, the court may expend the amount of the surplus in the fund for alcohol and drug abuse assessment and treatment of persons who are charged in the court with committing a criminal offense or with being a delinquent child or juvenile traffic offender and in relation to whom both of the following apply:

(a) The court determines that substance abuse was a contributing factor leading to the criminal or delinquent activity or the juvenile traffic offense with which the person is charged.

(b) The court determines that the person is unable to pay the cost of the alcohol and drug abuse assessment and treatment for which the surplus money will be used.

§ 4511.192. Arrestee for OVI or having physical control while under influence to receive written and verbal advice; seizure or surrender of license; officer's sworn report

(A) The arresting law enforcement officer shall give advice in accordance with this section to any person under arrest for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 [4511.19.4] of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance. The officer shall give that advice in a written form that contains the information described in division (B) of this section and shall read the advice to the person. The form shall contain a statement that the form was shown to the person under arrest and read to the person by the arresting officer. One or more persons shall witness the arresting officer's reading of the form, and the witnesses shall certify to this fact by signing the form.

(B) If a person is under arrest as described in division (A) of this section, before the person may be requested to submit to a chemical test or tests to determine the alcohol and drug content of the person's blood, breath, or urine, the arresting officer shall read the following form to the person:

"You now are under arrest for (specifically state the offense under state law or a substantially equivalent municipal

ordinance for which the person was arrested -- operating a vehicle under the influence of alcohol, a drug, or a combination of them; operating a vehicle after underage alcohol consumption; or having physical control of a vehicle while under the influence).

If you refuse to take any chemical test required by law, your Ohio driving privileges will be suspended immediately, and you will have to pay a fee to have the privileges reinstated. If you have a prior OVI or OVUAC conviction under state or municipal law within the preceding twenty years, you now are under arrest for state OVI, and, if you refuse to take a chemical test, you will face increased penalties if you subsequently are convicted of the state OVI.

(Read this part unless the person is under arrest for solely having physical control of a vehicle while under the influence.) If you take any chemical test required by law and are found to be at or over the prohibited amount of alcohol in your blood, breath, or urine as set by law, your Ohio driving privileges will be suspended immediately, and you will have to pay a fee to have the privileges reinstated.

If you take a chemical test, you may have an independent chemical test taken at your own expense."

(C) If the arresting law enforcement officer does not ask a person under arrest as described in division (A) of this section to submit to a chemical test or tests under section 4511.191 of the Revised Code, the arresting officer shall seize the Ohio or out-of-state driver's or commercial driver's license or permit of the person and immediately forward it to the court in which the arrested person is to appear on the charge. If the arrested person is not in possession of the person's license or permit or it is not in the person's vehicle, the officer shall order the person to surrender it to the law enforcement agency that employs the officer within twenty-four hours after the arrest, and, upon the surrender, the agency immediately shall forward the license or permit to the court in which the person is to appear on the charge. Upon receipt of the license or permit, the court shall retain it pending the arrested person's initial appearance and any action taken under section 4511.196 [4511.19.6] of the Revised Code.

(D) (1) If a law enforcement officer asks a person under arrest as described in division (A) of this section to submit to a chemical test or tests under section 4511.191 [4511.19.1] of the Revised Code, if the officer advises the person in accordance with this section of the consequences of the person's refusal or submission, and if either the person refuses to submit to the test or tests or, unless the arrest was for a violation of section 4511.194 [4511.19.4] of the Revised Code or a substantially equivalent municipal ordinance, the person submits to the test or tests and the test results indicate a prohibited concentration of alcohol in the person's whole blood, blood serum or plasma, breath, or urine at the time of the alleged offense, the arresting officer shall do all of the following:

(a) On behalf of the registrar of motor vehicles, notify the person that, independent of any penalties or sanctions imposed upon the person, the person's Ohio driver's or commercial driver's license or permit or nonresident operating privilege is suspended immediately, that the suspension will last at least until the person's initial appearance on the charge, which will be held within five days after the date of the person's arrest or the issuance of a citation to the person, and that the person may appeal the suspension at the initial appearance or during the period of time ending thirty days after that initial appearance;

(b) Seize the driver's or commercial driver's license or permit of the person and immediately forward it to the registrar. If the arrested person is not in possession of the person's license or permit or it is not in the person's vehicle, the officer shall order the person to surrender it to the law enforcement agency that employs the officer within twenty-four hours after the person is given notice of the suspension, and, upon the surrender, the officer's employing agency immediately shall forward the license or permit to the registrar.

(c) Verify the person's current residence and, if it differs from that on the person's driver's or commercial driver's license or permit, notify the registrar of the change;

(1)(d) Send to the registrar, within forty-eight hours after the arrest of the person, a sworn report that includes all of the following statements:

(i) That the officer had reasonable grounds to believe that, at the time of the arrest, the arrested person was operating a vehicle, streetcar, or trackless trolley in violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance or for being in physical control of a stationary vehicle, streetcar, or trackless trolley in violation of section 4511.194 [4511.19.4] of the Revised Code or a substantially equivalent municipal ordinance;

(ii) That the person was arrested and charged with a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 [4511.19.4] of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance;

(iii) That the officer asked the person to take the designated chemical test or tests, advised the person in accordance with this section of the consequences of submitting to, or refusing to take, the test or tests, and gave the person the form described in division (B) of this section;

(iv) That either the person refused to submit to the chemical test or tests or, unless the arrest was for a violation of section 4511.194 [4511.19.4] of the Revised Code or a substantially equivalent municipal ordinance, the person submitted to the chemical test or tests and the test results indicate a prohibited concentration of alcohol in the person's whole blood, blood serum or plasma, breath, or urine at the time of the alleged offense.

(2) Division (D)(1) of this section does not apply to a person who is arrested for a violation of section 4511.194 [4511.19.4] of the Revised Code or a substantially equivalent municipal ordinance, who is asked by a law enforcement officer to submit to a chemical test or tests under section 4511.191 [4511.19.1] of the Revised Code, and who submits to the test or tests, regardless of the amount of alcohol that the test results indicate is present in the person's whole blood, blood serum or plasma, breath, or urine.

(E) The arresting officer shall give the officer's sworn report that is completed under this section to the arrested person at the time of the arrest, or the registrar of motor vehicles shall send the report to the person by regular first class mail as soon as possible after receipt of the report, but not later than fourteen days after receipt of it. An arresting officer may give an unsworn report to the arrested person at the time of the arrest provided the report is complete when given to the arrested person and subsequently is sworn to by the arresting officer. As soon as possible, but not later than forty-eight hours after the arrest of the person, the arresting officer shall send a copy of the sworn report to the court in which the arrested person is to appear on the charge for which the person was arrested.

(F) The sworn report of an arresting officer completed under this section is prima-facie proof of the information and statements that it contains. It shall be admitted and considered as prima-facie proof of the information and statements that it contains in any appeal under section 4511.197 [4511.19.7] of the Revised Code relative to any suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege that results from the arrest covered by the report.

§ 4511.193. Deposit of \$25 of fine for violating OVI ordinance into indigent drivers alcohol treatment fund; immobilization or forfeiture orders based on prior convictions

(A) Twenty-five dollars of any fine imposed for a violation of a municipal OVI ordinance shall be deposited into the municipal or county indigent drivers alcohol treatment fund created pursuant to division (H) of section 4511.191 of the Revised Code in accordance with this section and section 733.40, divisions (A) and (B) of section 1901.024, division (F) of section 1901.31, or division (C) of section 1907.20 of the Revised Code. Regardless of whether the fine is imposed by a municipal court, a mayor's court, or a juvenile court, if the fine was imposed for a violation of an ordinance of a municipal corporation that is within the jurisdiction of a municipal court, the twenty-five dollars that is subject to this section shall be deposited into the indigent drivers alcohol treatment fund of the municipal corporation in which is located the municipal court that has jurisdiction over that municipal corporation. Regardless of whether the fine is imposed by a county court, a mayor's court, or a juvenile court, if the fine was imposed for a violation of an ordinance of a municipal corporation that is within the jurisdiction of a county court, the twenty-five dollars that is subject to this section shall be deposited into the indigent drivers alcohol treatment fund of the county in which is located the county court that has jurisdiction over that municipal corporation. The deposit shall be made in accordance with section 733.40, divisions (A) and (B) of section 1901.024, division (F) of section 1901.31, or division (C) of section 1907.20 of the Revised Code.

(B) (1) The requirements and sanctions imposed by divisions (B)(1) and (2) of this section are an adjunct to and derive from the state's exclusive authority over the registration and titling of motor vehicles and do not comprise a part of the criminal sentence to be imposed upon a person who violates a municipal OVI ordinance.

(2) If a person is convicted of or pleads guilty to a violation of a municipal OVI ordinance, 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 pleaded guilty to one or more violations of division (A) or (B) of section 4511.19 of the Revised Code or one or more other equivalent offenses, the court in addition to and independent of any sentence that it imposes upon the offender for the offense, shall do whichever of the following is applicable:

(a) Except as otherwise provided in division (B)(2)(b) of this section, if, within six years of the current offense, the offender has been convicted of or pleaded guilty to one violation described in division (B)(2) of this section, the court shall order the immobilization for ninety days of that vehicle and the impoundment for ninety days of the license plates of that vehicle. The order for the immobilization and impoundment shall be issued and enforced in accordance with section 4503.233 of the Revised Code.

(b) If, within six years of the current offense, the offender has been convicted of or pleaded guilty to two or more violations described in division (B)(2) of this section, or if the offender previously has been convicted of or pleaded guilty to a violation of division (A) of section 4511.19 of the Revised Code under circumstances in which the violation was a felony and regardless of when the violation and the conviction or guilty plea occurred, the court shall order the criminal forfeiture to the state of that vehicle. The order of criminal forfeiture shall be issued and enforced in accordance with section 4503.234 of the Revised Code.

§ 4511.194. Having physical control of vehicle while under influence

(A) As used in this section:

(1) "National highway traffic safety administration" has the same meaning as in section 4511.19 of the Revised Code.

(2) "Physical control" means being in the driver's position of the front seat of a vehicle or in the driver's position of a streetcar or trackless trolley and having possession of the vehicle's, streetcar's, or trackless trolley's ignition key or other ignition device.

(B) No person shall be in physical control of a vehicle, streetcar, or trackless trolley while under the influence of alcohol, a drug of abuse, or a combination of them or while the person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the Revised Code.

(C) (1) In any criminal prosecution or juvenile court proceeding for a violation of this section or a substantially equivalent municipal ordinance, if a law enforcement officer has administered a field sobriety test to the person in physical control of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that were set by the national highway traffic safety administration, all of the following apply:

(a) The officer may testify concerning the results of the field sobriety test so administered.

(b) The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.

(c) If testimony is presented or evidence is introduced under division (C)(1)(a) or (b) of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence, and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.

(2) Division (C)(1) of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by probable cause or its determination of any other matter in a criminal prosecution or juvenile court proceeding of a type described in that division, from considering evidence or testimony that is not otherwise disallowed by division (C)(1) of this section.

(D) Whoever violates this section is guilty of having physical control of a vehicle while under the influence, a misdemeanor of the first degree. In addition to other sanctions imposed, the court may impose on the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of section 4510.02 of the Revised Code.

§ 4511.195. Seizure and detention of vehicle where arrestee has prior conviction; return, immobilization or forfeiture after disposition of charge; rights of vehicle owner

(A) As used in this section:

(1) "Arrested person" means a person who is arrested for a violation of division (A) of section 4511.19 of the Revised Code or a municipal OVI ordinance and whose arrest results in a vehicle being seized under division (B) of this section.

(2) "Vehicle owner" means either of the following:

(a) The person in whose name is registered, at the time of the seizure, a vehicle that is seized under division (B) of this section;

(b) A person to whom the certificate of title to a vehicle that is seized under division (B) of this section has been assigned and who has not obtained a certificate of title to the vehicle in that person's name, but who is deemed by the court as being the owner of the vehicle at the time the vehicle was seized under division (B) of this section.

(3) "Interested party" includes the owner of a vehicle seized under this section, all lienholders, the defendant arrested person, the owner of the place of storage at which a vehicle seized under this section is stored, and the person or entity that caused the vehicle to be removed.

(B) (1) The arresting officer or another officer of the law enforcement agency that employs the arresting officer, in addition to any action that the arresting officer is required or authorized to take by section 4511.19 or 4511.191 of the Revised Code or by any other provision of law, shall seize the vehicle that a person was operating at the time of the alleged offense and its license plates if the vehicle is registered in the arrested person's name and if either of the following applies:

(a) The person is arrested for a violation of division (A) of section 4511.19 of the Revised Code or of a municipal OVI ordinance and, within six years of the alleged violation, the person previously has been convicted of or pleaded guilty to one or more violations of Division (A) or (B) of section 4511.19 of the Revised Code or one of more other equivalent offenses.

(b) The person is arrested for a violation of division (A) of section 4511.19 of the Revised Code or of a municipal OVI ordinance and the person previously has been convicted of or pleaded guilty to a violation of division (A) of section 4511.19 of the Revised Code under circumstances in which the violation was a felony, regardless of when the prior felony violation of division (A) of section 4511.19 of the Revised Code and the conviction or guilty plea occurred.

(2) A law enforcement agency that employs a law enforcement officer who makes an arrest of a type that is described in division (B)(1) of this section and that involves a rented or leased vehicle that is being rented or lease for a period of thirty days or less shall notify, within twenty-four hours after the officer makes the arrest, the lessor or owner of the vehicle regarding the circumstances of the arrest and the location at which the vehicle may be picked up. At the time of the seizure of the vehicle, the law enforcement officer who made the arrest shall give the arrested person written notice that the vehicle and its license plates have been seized; that the vehicle either will be kept by the officer's law enforcement agency or will be immobilized at least until the operator's initial appearance on the charge of the offense for which the arrest was made; that, at the initial appearance, the court in certain circumstances may order that the vehicle and license plates be released to the arrested person until the disposition of that charge; and that, if the arrested person is convicted of that charge, the court generally must order the immobilization of the vehicle and the impoundment of its license plates, or the forfeiture of the vehicle.

(3) The arresting officer or a law enforcement officer of the agency that employs the arresting officer shall give written notice of the seizure to the court that will conduct the initial appearance of the arrested person on the charges arising out of the arrest. Upon receipt of the notice, the court promptly shall determine whether the arrested person is the vehicle owner. If the court determines that the arrested person is not the vehicle owner, it promptly shall send by regular mail written notice of the seizure to the vehicles's registered owner. The written notice shall contain all of the information required by division (B)(2) of this section to be in a notice to be given to the arrested person and also shall specify the date, time, and place of the arrested person's initial appearance. The notice also shall inform the vehicle owner that if title

to a motor vehicle that is subject to an order for criminal forfeiture under this section is assigned or transferred and division (B)(2) or (3) of section 4503.234 of the Revised Code applies, the court may fine the arrested person the value of the vehicle. The notice also shall state that if the vehicle is immobilized under division (A) of section 4503.233 of the Revised Code, seven days after the end of the period of immobilization a law enforcement agency will send the vehicle owner a notice, informing the owner that if the release of the vehicle is not obtained in accordance with division (D)(3) of section 4503.233 of the Revised Code, the vehicle shall be forfeited. The notice also shall inform the vehicle owner that the vehicle owner may be charged expenses or charges incurred under this section and section 4503.233 of the Revised Code for the removal and storage of the vehicle.

The written notice that is given to the arrested person also shall state that if the person is convicted of or pleads guilty to the offense and the court issues an immobilization and impoundment order relative to that vehicle, division (D)(4) of section 4503.233 of the Revised Code prohibits the vehicle from being sold during the period of immobilization without the prior approval of the court.

(4) At or before the initial appearance, the vehicle owner may file a motion requesting the court to order that the vehicle and its license plates be released to the vehicle owner. Except as provided in this division and subject to the payment of expenses or charges incurred in the removal and storage of the vehicle, the court, in its discretion, then may issue an order releasing the vehicle and its license plates to the vehicle owner. Such an order may be conditioned upon such terms as the court determines appropriate, including the posting of a bond in an amount determined by the court. If the arrested person is not the vehicle owner and if the vehicle owner is not present at the arrested person's initial appearance, and if the court believes that the vehicle owner was not provided with adequate notice of the initial appearance, the court, in its discretion, may allow the vehicle owner to file a motion within seven days of the initial appearance. If the court allows the vehicle owner to file such a motion after the initial appearance, the extension of time granted by the court does not extend the time within which the initial appearance is to be conducted. If the court issues an order for the release of the vehicle and its license plates, a copy of the order shall be made available to the vehicle owner. If the vehicle owner presents a copy of the order to the law enforcement agency that employs the law enforcement officer who arrested the arrested person, the law enforcement agency promptly shall release the vehicle and its license plates to the vehicle owner upon payment by the vehicle owner of any expenses or charges incurred in the removal and storage of the vehicle.

(5) A vehicle seized under division (B)(1) of this section either shall be towed to a place specified by the law enforcement agency that employs the arresting officer to be safely kept by the agency at that place for the time and in the manner specified in this section or shall be otherwise immobilized for the time and in the manner specified in this section. A law enforcement officer of that agency shall remove the identification license plates of the vehicle, and they shall be safely kept by the agency for the time and in the manner specified in this section. No vehicle that is seized and either towed or immobilized pursuant to this division shall be considered contraband for purposes of section 2933.41, 2933.42, or 2933.43 of the Revised Code. The vehicle shall not be immobilized at any place other than a commercially operated private storage lot, a place owned by a law enforcement agency or other government agency, or a place to which one of the following applies:

(a) The place is leased by or otherwise under the control of a law enforcement agency or other government agency.

(b) The place is owned by the vehicle operator, the vehicle operator's spouse, or a parent or child of the vehicle operator.

(c) The place is owned by a private person or entity, and, prior to the immobilization, the private entity or person that

owns the place, or the authorized agent of that private entity or person, has given express written consent for the immobilization to be carried out at that place.

(d) The place is a street or highway on which the vehicle is parked in accordance with the law.

(C) (1) A vehicle seized under division (B) of this section shall be safely kept at the place to which it is towed or otherwise moved by the law enforcement agency that employs the arresting officer until the initial appearance of the arrested person relative to the charge in question. The license plates of the vehicle that are removed pursuant to division (B) of this section shall be safely kept by the law enforcement agency that employs the arresting officer until the initial appearance of the arrested person relative to the charge in question.

(2) (a) At the initial appearance or not less than seven days prior to the date of final disposition, the court shall notify the arrested person, if title to a motor vehicle that is subject to an order for criminal forfeiture under this section is assigned or transferred and division (B)(2) or (3) of section 4503.234 of the Revised Code applies, the court may fine the arrested person the value of the vehicle. If, at the initial appearance, the arrested person pleads guilty to the violation of division (A) of section 4511.19 of the Revised Code or of the municipal OVI ordinance or pleads no contest to and is convicted of the violation, the court shall impose sentence upon the person as provided by law or ordinance; the court shall order the immobilization of the vehicle the arrested person was operating at the time of the offense if registered in the arrested person's name and the impoundment of its license plates under section 4503.233 and section 4511.19 OR 4511.193 of the Revised Code or the criminal forfeiture to the state of the vehicle if registered in the arrested person's name under section 4503.234 and section 4511.19 or 4511.193 of the Revised Code, whichever is applicable; and the vehicle and its license plates shall not be returned or released to the arrested person.

(b) If, at any time, the charge that the arrested person violated division (A) of section 4511.19 of the Revised Code or the municipal OVI ordinance is dismissed for any reason, the court shall order that the vehicle seized at the time of the arrest and its license plates immediately be released to the person.

(D) If a vehicle and its license plates are seized under division (B) of this section and ARE not returned or released to the arrested person pursuant to division (C) of this section, the vehicle and its license plates shall be retained until the final disposition of the charge in question. Upon the final disposition of that charge, the court shall do whichever of the following is applicable:

(1) If the arrested person is convicted of or pleads guilty to the violation of division (A) of section 4511.19 of the Revised Code or of the municipal OVI ordinance, the court shall impose sentence upon the person as provided by law or ordinance and shall order the immobilization of the vehicle the person was operating at the time of the offense if it is registered in the arrested person's name and the impoundment of its license plates under section 4503.233 and section 4511.19 or 4511.193 of the Revised Code, or the criminal forfeiture of the vehicle if it is registered in the arrested person's name under section 4503.234 and section 4511.19 OR 4511.193 of the Revised Code, whichever is applicable.

(2) If the arrested person is found not guilty of the violation of division (A) of section 4511.19 of the Revised Code or of the municipal OVI ordinance, the court shall order that the vehicle and its license plates immediately be released to the arrested person.

(3) If the charge that the arrested person violated division (A) of section 4511.19 of the Revised Code or the municipal OVI ordinance is dismissed for any reason, the court shall order that the vehicle and its license plates immediately be released to the arrested person.

(4) If the impoundment of the vehicle was not authorized under this section, the court shall order that the vehicle and its license plates be returned immediately to the arrested person or, if the arrested person is not the vehicle owner, to the vehicle owner, and shall order that the state or political subdivision of the law enforcement agency served by the law enforcement officer who seized the vehicle pay all expenses and charges incurred in its removal and storage.

(E) If a vehicle is seized under division (B) of this section, the time between the seizure of the vehicle and either its release to the arrested person under division (C) of this section or the issuance of an order of immobilization of the vehicle under section 4503.233 of the Revised Code shall be credited against the period of immobilization ordered by the court.

(F) (1) Except as provided in Division (D)(4) of this section, the arrested person may be charged expenses or charges incurred in the removal and storage of the immobilized vehicle. The court with jurisdiction over the case, after notice to all interested parties, including lienholders, and after an opportunity for them to be heard, if the court finds that the arrested person does not intend to seek release of the vehicle at the end of the period of immobilization under section 4503.233 of the Revised Code or that the arrested person is not or will not be able to pay the expenses and charges incurred in its removal and storage, may order that title to the vehicle be transferred, in order of priority, first into the name of the person or entity that removed it, next into the name of a lienholder, or lastly into the name of the owner of the place of storage.

Any lienholder that receives title under a court order shall do so on the condition that it pay any expenses or charges incurred in the vehicle's removal and storage. If the person or entity that receives title to the vehicle is the person or entity that removed it, the person or entity shall receive title on the condition that it pay any lien on the vehicle. The court shall not order that title be transferred to any person or entity other than the owner of the place of storage if the person or entity refuses to receive the title. Any person or entity that receives title either may keep title to the vehicle or may dispose of the vehicle in any legal manner that it considers appropriate, including assignment of the certificate of title to the motor vehicle to a salvage dealer or a scrap metal processing facility. The person or entity shall not transfer the vehicle to the person who is the vehicle's immediate previous owner.

If the person or entity that receives title assigns the motor vehicle to a salvage dealer or scrap metal processing facility, the person or entity shall send the assigned certificate of title to the motor vehicle to the clerk of the court of common pleas of the county in which the salvage dealer or scrap metal processing facility is located. The person or entity shall mark the face of the certificate of title with the words "FOR DESTRUCTION" and shall deliver a photocopy of the certificate of title to the salvage dealer or scrap metal processing facility for its records.

(2) Whenever a court issues an order under division (F)(1) of this section, the court also shall order removal of the license plates from the vehicle and cause them to be sent to the registrar of motor vehicles if they have not already been sent to the registrar. Thereafter, no further proceedings shall take place under this section or under section 4503.233 of the Revised Code.

(3) Prior to initiating a proceeding under division (F)(1) of this section, and upon payment of the fee under division (B) of section 4505.14 of the Revised Code, any interested party may cause a search to be made of the public records of the bureau of motor vehicles or the clerk of the court of common pleas, to ascertain the identity of any lienholder of the vehicle. The initiating party shall furnish this information to the clerk of the court with jurisdiction over the case, and the clerk shall provide notice to the arrested person, any lienholder, and any other interested parties listed by the initiating

party, at the last known address supplied by the initiating party, by certified mail or, at the option of the initiating party, by personal service or ordinary mail.

§ 4511.196. Initial appearance; new suspension of license

(A) If a person is arrested for being in physical control of a vehicle, streetcar, or trackless trolley in violation of section 4511.194 [4511.19.4] of the Revised Code or a substantially equivalent municipal ordinance, or for operating a vehicle, streetcar, or trackless trolley in violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance, regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under section 4511.191 [4511.19.1] of the Revised Code, the person's initial appearance on the charge resulting from the arrest shall be held within five days of the person's arrest or the issuance of the citation to the person.

(B) (1) If a person is arrested as described in division (A) of this section, if the person's driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under section 4511.191 [4511.19.1] of the Revised Code in relation to that arrest, if the person appeals the suspension in accordance with section 4511.197 [4511.19.7] of the Revised Code, and if the judge, magistrate, or mayor terminates the suspension in accordance with that section, the judge, magistrate, or mayor, at any time prior to adjudication on the merits of the charge resulting from the arrest, may impose a new suspension of the person's license, permit, or nonresident operating privilege, notwithstanding the termination, if the judge, magistrate, or mayor determines that the person's continued driving will be a threat to public safety.

(2) If a person is arrested as described in division (A) of this section and if the person's driver's or commercial driver's license or permit or nonresident operating privilege has not been suspended under section 4511.191 [4511.19.1] of the Revised Code in relation to that arrest, the judge, magistrate, or mayor, at any time prior to the adjudication on the merits of the charge resultin from the arrest, may impose a suspension of the person's license, permit, or nonresident operating privilege if the judge, magistrate, or mayor determines that the person's continued driving will be a threat to public safety.

(C) A suspension under division (B)(1) or (2) of this section shall continue until the complaint on the charge resulting from the arrest is adjudicated on the merits. A court that imposes a suspension under division (B)(2) of this section shall send the person's driver's license or permit to the registrar of motor vehicles. If the court possesses the license or permit of a person in the category described in division (B)(2) of this section and the court does not impose a suspension under that division, the court shall return the license or permit to the person if the license or permit has not otherwise been suspended or cancelled.

Any time during which the person serves a suspension of the person's license, permit, or privilege that is imposed pursuant to division (B)(1) or (2) of this section shall be credited against any period of judicial suspension of the person's license, permit, or privilege that is imposed underdivision (G) of section 4511.19 of the Revised Code or under section 4510.07 of the Revised Code for a violation of a municipal ordinance substantially equivalent to division (A) section 4511.19 of the Revised Code.

(D) If a person is arrested and charged with a violation of section 2903.08 of the Revised Code or a violation of section 2903.06 of the Revised Code that is a felony offense, the judge at the person's initial appearance, preliminary hearing, or arraignment may suspend the person's driver's or commercial driver's license or permit or nonresident operating privilege if the judge determines at any of those proceedings that the person's continued driving will be a threat to public safety.

A suspension imposed under this division shall continue until the indictment or information alleging the violation specified in this division is adjudicated on the merits. A court that imposes a suspension under this division shall send the person's driver's or commercial driver's license or permit to the registrar.

§ 4511.197. Appeal of suspension under implied consent provisions; length of suspension that is upheld or not appealed; petition for limited driving privileges

(A) If a person is arrested for operating a vehicle, streetcar, or trackless trolley in violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance or for being in physical control of a vehicle, streetcar, or trackless trolley in violation of section 4511.194 [4511.19.4] of the Revised Code or a substantially equivalent municipal ordinance and if the person's driver's or commercial driver's license or permit or nonresident operating privilege is suspended under section 4511.191 [4511.19.1] of the Revised Code, the person may appeal the suspension at the person's initial appearance on the charge resulting from the arrest or within the period ending thirty days after the person's initial appearance on that charge, in the court in which the person will appear on that charge. If the person appeals the suspension, the appeal itself does not stay the operation of the suspension. If the person appeals the suspension, either the person or the registrar of motor vehicles may request a continuance of the appeal, and the court may grant the continuance. The court also may continue the appeal on its own motion. Neither the request for, nor the granting of, a continuance stays the suspension that is the subject of the appeal, unless the court specifically grants a stay.

(B) A person shall file an appeal under division (A) of this section in the municipal court, county court, juvenile court, mayor's court, or court of common pleas that has jurisdiction over the charge in relation to which the person was arrested.

(C) If a person appeals a suspension under division (A) of this section, the scope of the appeal is limited to determining whether one or more of the following conditions have not been met:

(1) Whether the arresting law enforcement officer had reasonable ground to believe the arrested person was operating a vehicle, streetcar, or trackless trolley in violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance or was in physical control of a vehicle, streetcar, or trackless trolley in violation of section 4511.194 [4511.19.4] of the Revised Code or a substantially equivalent municipal ordinance and whether the arrested person was in fact placed under arrest;

(2) Whether the law enforcement officer requested the arrested person to submit to the chemical test or tests designated pursuant to division (A) of section 4511.191 [4511.19.1] of the Revised Code;

(3) Whether the arresting officer informed the arrested person of the consequences of refusing to be tested or of submitting to the test or tests;

(4) Whichever of the following is applicable:

(a) Whether the arrested person refused to submit to the chemical test or tests requested by the officer;

(b) Whether the arrest was for a violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance and, if it was, whether the chemical test results indicate that the arrested person's whole blood contained

a concentration of eight-hundredths of one per cent or more by weight of alcohol, the person's blood serum or plasma contained a concentration of ninety-six-thousandths of one per cent or more by weight of alcohol, the person's breath contained a concentration of eight-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath, or the person's urine contained a concentration of eleven-hundredths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine at the time of the alleged offense.

(D) A person who appeals a suspension under division (A) of this section has the burden of proving, by a preponderance of the evidence, that one or more of the conditions specified in division (C) of this section has not been met. If, during the appeal, the judge or magistrate of the court or the mayor of the mayor's court determines that all of those conditions have been met, the judge, magistrate, or mayor shall uphold the suspension, continue the suspension, and notify the registrar of motor vehicles of the decision on a form approved by the registrar.

Except as otherwise provided in this section, if a suspension imposed under section 4511.191 [4511.19.1] of the Revised Code is upheld on appeal or if the subject person does not appeal the suspension under division (A) of this section, the suspension shall continue until the complaint alleging the violation for which the person was arrested and in relation to which the suspension was imposed is adjudicated on the merits or terminated pursuant to law. If the suspension was imposed under division (B)(1) of section 4511.191 [4511.19.1] of the Revised Code and it is continued under this section, any subsequent finding that the person is not guilty of the charge that resulted in the person being requested to take the chemical test or tests under division (A) of section 4511.191 [4511.19.1] of the Revised Code does not terminate or otherwise affect the suspension. If the suspension was imposed under division (C) of section 4511.191 [4511.19.1] of the Revised Code in relation to an alleged misdemeanor violation of division (A) or (B) of section 4511.19 of the Revised Code or of a municipal OVI ordinance and it is continued under this section, the suspension shall terminate if, for any reason, the person subsequently is found not guilty of the charge that resulted in the person taking the chemical test or tests.

If, during the appeal, the judge or magistrate of the trial court or the mayor of the mayor's court determines that one or more of the conditions specified in division (C) of this section have not been met, the judge, magistrate, or mayor shall terminate the suspension, subject to the imposition of a new suspension under division (B) of section 4511.196 [4511.19.6] of the Revised Code; shall notify the registrar of motor vehicles of the decision on a form approved by the registrar; and, except as provided in division (B) of section 4511.196 [4511.19.6] of the Revised Code, shall order the registrar to return the driver's or commercial driver's license or permit to the person or to take any other measures that may be necessary, if the license or permit was destroyed under section 4510.53 of the Revised Code, to permit the person to obtain a replacement driver's or commercial driver's license or permit from the registrar or a deputy registrar in accordance with that section. The court also shall issue to the person a court order, valid for not more than ten days from the date of issuance, granting the person operating privileges for that period.

(E) Any person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended pursuant to section 4511.191 [4511.19.1] of the Revised Code may file a petition requesting limited driving privileges in the common pleas court, municipal court, county court, mayor's court, or juvenile court with jurisdiction over the related criminal or delinquency case. The petition may be filed at any time subsequent to the date on which the arresting law enforcement officer serves the notice of suspension upon the arrested person but no later than thirty days after the arrested person's initial appearance or arraignment. Upon the making of the request, limited driving privileges may be granted under sections 4510.021 [4510.02.1] and 4510.13 of the Revised Code, regardless of whether the person appeals the suspension under this section or appeals the decision of the court on the appeal, and, if the person has so appealed the suspension or decision, regardless of whether the matter has been heard or decided by the court. The person shall pay the costs of the proceeding, notify the registrar of the filing of the petition, and send the registrar a copy of the petition.

The court may not grant the person limited driving privileges when prohibited by section 4510.13 or 4511.191 [4511.19.1] of the Revised Code.

(F) Any person whose driver's or commercial driver's license or permit has been suspended under section 4511.19 of the Revised Code or under section 4510.07 of the Revised Code for a conviction of a municipal OVI offense and who desires to retain the license or permit during the pendency of an appeal, at the time sentence is pronounced, shall notify the court of record or mayor's court that suspended the license or permit of the person's intention to appeal. If the person so notifies the court, the court, mayor, or clerk of the court shall retain the license or permit until the appeal is perfected, and, if execution of sentence is stayed, the license or permit shall be returned to the person to be held by the person during the pendency of the appeal. If the appeal is not perfected or is dismissed or terminated in an affirmance of the conviction, then the license or permit shall be taken up by the court, mayor, or clerk, at the time of putting the sentence into execution, and the court shall proceed in the same manner as if no appeal was taken.

(G) Except as otherwise provided in this division, if a person whose driver's or commercial driver's license or permit or nonresident operating privilege was suspended under section 4511.191 [4511.19.1] of the Revised Code appeals the suspension under division (A) of this section, the prosecuting attorney of the county in which the arrest occurred shall represent the registrar of motor vehicles in the appeal. If the arrest occurred within a municipal corporation within the jurisdiction of the court in which the appeal is conducted, the city director of law, village solicitor, or other chief legal officer of that municipal corporation shall represent the registrar. If the appeal is conducted in a municipal court, the registrar shall be represented as provided in section 1901.34 of the Revised Code. If the appeal is conducted in a mayor's court, the city director of law, village solicitor, or other chief legal officer of the municipal corporation that operates that mayor's court shall represent the registrar.

(H) The court shall give information in writing of any action taken under this section to the registrar of motor vehicles.

(I) When it finally has been determined under the procedures of this section that a nonresident's privilege to operate a vehicle within this state has been suspended, the registrar of motor vehicles shall give information in writing of the action taken to the motor vehicle administrator of the state of the nonresident's residence and of any state in which the nonresident has a license.