

CHAPTER 333
Intoxication; Reckless Operation; Speed

<p>333.01 Driving while under the influence.</p> <p>333.011 Implied Consent</p> <p>333.012 Driving with suspended license.</p> <p>333.02 Reckless operation on streets, public or private property.</p> <p>333.03 Maximum speed limits; assured clear distance ahead.</p>	<p>333.04 Slow speed; posted minimum speeds.</p> <p>333.05 Speed limitations over bridges.</p> <p>333.06 Speed exceptions for emergency or safety vehicles</p> <p>333.07 Drag racing prohibited.</p> <p>333.99 Penalty</p>
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CROSS REFERENCES

See sectional histories for similar State law
 Drug of abuse defined - see Ohio R.C. 3719.011(A)
 Alcohol defined - see Ohio R.C. 4301.01(B)(1)
 Alteration of prima-facie speed limits - see Ohio R.C. 4511.21, 4511.22(B), 4511.23
 Failure to control vehicle - see TRAF. 331.34
 Walking on highway while under the influence - see TRAF. 371.09

333.01 DRIVING WHILE UNDER THE INFLUENCE

(a) No person shall operate any vehicle within the Municipality if any of the following apply:

(1) The person is under the influence of alcohol, a drug of abuse or alcohol and a drug of abuse;

(2) The person has a concentration of ten-hundredths of one per cent or more by weight of alcohol in his blood;

(3) The person has a concentration of ten-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his breath;

(4) The person has a concentration of fourteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his urine.

(b) In any criminal prosecution for a violation of this section relating to operating a vehicle while under the influence of alcohol and/or a drug of abuse, or relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, the court may admit evidence on the concentration of alcohol and/or drugs of abuse in the defendant's blood, urine, breath, or other bodily substance withdrawn within two hours of the time of the alleged violation.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 police officer under Ohio R.C. 4511.191, only a physician, a registered nurse, or a qualified technician or chemist shall withdraw blood for the purpose of determining its alcohol and/or drug content. This limitation does not apply to the taking of breath or urine specimens. A physician, a registered nurse, or a qualified technician or chemist may refuse to withdraw blood for the purpose of determining the alcohol and/or drug content of the blood, if in his opinion the physical welfare of the person would be endangered by the withdrawing of the blood.

Such bodily substance shall be analyzed in accordance with methods approved by the director of health by an individual possessing a valid permit issued by the director of health pursuant to Ohio R.C. 3701.143.

If there was at the time the bodily substance was withdrawn a concentration of less than ten-hundredths of one per cent by weight of alcohol in the defendant's blood, less than ten-hundredths of one gram by weight of alcohol per two hundred ten liters of his breath, or less than fourteen-hundredths of one gram by weight of alcohol per one hundred milliliters of his urine, such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant.

Upon the request of the person who was tested, the results of the chemical test shall be made available to him, his attorney, or his agent, immediately upon the completion of the chemical test analysis.

The person tested may have a physician, a registered nurse, or a qualified technician or chemist of his own choosing administer a chemical test or tests in addition to any administered at the request of a police officer, and shall be so advised. 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 police officer.

Any physician, registered nurse, or qualified technician or chemist 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 from civil liability that is based upon a claim of assault and battery or based upon any other claim that is not in the nature of a claim of malpractice, for any act performed in withdrawing blood from the person. (ORC 4511.19)

333.011 IMPLIED CONSENT

(a) Any person who operates a vehicle upon the public highways within this Municipality shall be deemed to have given consent to a chemical test or tests of his blood, breath, or urine, for the purpose of determining the alcohol and/or drug content of his blood, breath or urine if arrested for operating a vehicle while under the influence of alcohol and/or a drug of abuse or for operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine. The chemical test or tests shall be administered at the request of a police officer having reasonable grounds to believe the person to have been operating a vehicle upon the public highways in this Municipality while under the influence of alcohol and/or a drug of abuse or with a prohibited concentration of alcohol in the blood, breath, or urine. The College Corner Police Department shall designate the type of test or tests to be administered.

(b) Any person who is dead or unconscious, or who is otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn consent provided by division (a) of this section and the test or tests may be administered, subject to sections 313.12 to 313.16 of Ohio R.C.

(c) Any person under arrest for operating a motor vehicle while under the influence of alcohol and/or a drug of abuse or for operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine shall be advised at a police station, or at a hospital, first-aid station, or clinic to which the person has been taken for first-aid or medical treatment, of the consequences of his refusal to submit upon request to a chemical test. The advice shall be in a written form prescribed by the registrar of motor vehicles and shall be read to the person. The form shall contain a statement that the form was shown to the person under arrest and read to him in the presence of

the arresting officer and either another police officer, or an employee of a hospital, first-aid station, or clinic, if any, to which the person has been taken for first-aid or medical treatment. The witnesses shall certify to this fact by signing the form.

The arresting officer shall verify the current residence of any person under arrest pursuant to this section. If the current residence differs from that on the person's operator's or chauffeur's license or permit, the officer shall notify the registrar of motor vehicles of the change.

(d) If a person under arrest for operating a vehicle while under the influence of alcohol and/or a drug of abuse or for operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine refuses upon the request of a police officer to submit to a chemical test, after first having been advised of the consequences of his refusal, no chemical test shall be given, but the registrar of motor vehicles, upon the receipt of a sworn report of the police officer that he had reasonable grounds to believe the arrested person had been operating a vehicle upon the public highways within this state while under the influence of alcohol and/or a drug of abuse or with a prohibited concentration of alcohol in the blood, breath, or urine and that the person refused to submit to the chemical test upon the request of the police officer and upon the receipt of the form as provided in division (c) of this section certifying that the arrested person was advised of the consequences of his refusal, shall suspend his operator's or chauffeur's license or permit, or any nonresident operating privilege for a period of one year, subject to review as provided in this section; or if the person is a resident without a license or permit to operate a vehicle within this state, the registrar shall deny to the person the issuance of an operator's or chauffeur's license or permit for a period of one year after the date of the alleged violation. The suspension or denial shall continue for the entire one-year period subject to review as provided in this section and subject to termination as provided in division (i) of this section.

(e) Upon suspending the operator's or chauffeur's license or permit or nonresident operating privilege of any person, as provided in division (d) of this section, the registrar shall immediately notify the person in writing, at his last known address, and inform him that he may petition for a hearing as provided in division (f) of this section.

If a person whose operator's or chauffeur's license, or permit or nonresident operating privilege has been suspended, petitions for a hearing or appeals any decision that is adverse to him, the suspension shall begin at the termination of any hearing or appeal unless the hearing or appeal resulted in a decision favorable to the person.

If the results of a chemical test administered pursuant to this section indicate that the blood of the arrested person contained a concentration of ten-hundredths of one per cent or more by weight of alcohol, a concentration of ten-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his breath, or a concentration of fourteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his urine, at the time of the alleged offense, or if the person refused to submit upon request to a chemical test, the arresting law enforcement officer shall seize the Ohio or out-of-state operator's or chauffeur's license or permit of the arrested person and immediately forward it to the court in which the arrested person is to appear.

If the arrested person fails to surrender his operator's or chauffeur's license or permit because he does not have it on his person or in his vehicle, the arresting officer shall order him to surrender it within twenty-four hours. If the person fails to do so, the law enforcement officer shall notify the court in which the arrested person is scheduled to appear of that fact.

(f) Any person whose operator's or chauffeur's license or permit or nonresident operating privilege has been suspended pursuant to this section, may, within twenty days of the mailing of the notice provided above, file a petition in the municipal court or the county court, or in case the person is a minor in the juvenile court, in whose jurisdiction the person resides or in whose jurisdiction the arrest occurred if the person is not a resident of this state, agreeing to pay the cost of the proceedings and alleging error in the action taken by the registrar of motor vehicles under division (d) of this section or alleging one or more of the matters within the scope of the hearing as provided in this section, or both. Such petitioner shall notify the registrar of the filing of the petition and send him a copy of the petition.

The scope of the hearing is limited to the issues of whether the law enforcement officer had reasonable ground to believe the petitioner was operating a vehicle upon the public highways within the Municipality

while under the influence of alcohol and/or a drug of abuse or with a prohibited concentration of alcohol in the blood, breath, or urine, whether the petitioner was placed under arrest, whether the petitioner refused to submit to the chemical test upon request of the officer, and, if the petitioner refused, whether he was advised of the consequences of his refusal.

(g)(1) The registrar shall furnish the court a copy of the registrar's affidavit as provided in division (c) of this section and any other relevant information required by the court.

(2) In hearing the matter and in determining whether the person has shown error in the action taken by the registrar under division (d) of this section, the court shall decide the issue upon any relevant, competent, and material evidence that either the registrar or the person whose operator's or chauffeur's license or permit has been suspended submits.

(3) In the proceedings, the registrar shall be represented by the prosecuting attorney of the county in which the person resides if the petition is filed in the county court, except where the petitioner is a resident of a city or village within the jurisdiction of a county court, in which case the city director of law or village solicitor shall represent the registrar. If the petition is filed in the municipal court, the registrar shall be represented as provided in section 1901.34 of Ohio R.C.

(4) If the court finds from the evidence submitted that the person has failed to show error in the action taken by the registrar under division (d) of this section or in one or more of the matters within the scope of the hearing as provided in division (f) of this section, or both, then the court shall assess the cost of the proceedings against such person and shall uphold the suspension provided in division (d) of this section. If the court finds that the person has shown error in the action taken by the registrar of motor vehicles under division (d) of this section or in one or more matters within the scope of the hearing as provided in division (f) of this section, or both, the cost of the proceedings shall be paid out of the county treasury of the county in which the proceedings were held, and the operator's or chauffeur's license or permit or nonresident operating privilege of such person shall be reinstated without charge.

(5) The court may, if it finds reasonable cause to believe that suspension would seriously affect the person's ability to continue in

his employment, grant the person occupational driving privileges during the period of suspension imposed pursuant to division (d) of this section.

(6) If a person whose license has been suspended under division (d) of this section has not previously filed a petition alleging that the suspension would seriously affect the person's ability to continue his employment, the person may, at any time during the period of suspension, file a petition in any court that has jurisdiction over the person under division (f) of this section alleging such fact. The court may, upon satisfactory proof that there is reasonable cause to believe that suspension would seriously affect the person's ability to continue in his employment, grant the person occupational driving privileges during the period for which the suspension would otherwise be imposed. The petitioner shall pay the costs of the proceeding and shall notify the registrar of the filing of the petition and send him a copy. The registrar shall be represented as provided in division (g)(3) of this section.

(7) In granting occupational driving privileges, the court may impose any condition it considers reasonable and necessary to limit the use of a motor vehicle by the person. The court shall deliver to the person a permit card, in a form prescribed by the court, setting forth the time, place, and other conditions limiting the defendant's use of a motor vehicle. The grant of occupational driving privileges shall be conditioned upon the person's having the permit in his possession at all times during which he is operating a motor vehicle.

A person granted occupational driving privileges who operates a motor vehicle for other than occupational purposes, in violation of any condition imposed by the court, or without having the permit in his possession, is guilty of a violation of section 335.07.

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

(h) When it has been finally determined under the procedures of this section 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 he has a license.

(i) A suspension of the operator's or chauffeur's license or permit of a resident, the suspension of the operating privilege of a nonresident, or the denial of an operator's or chauffeur's license or permit for refusal to submit to a chemical test to determine the alcoholic

content of the person's blood pursuant to this section, shall be terminated by the registrar upon receipt of notice of the person's entering a plea of guilty or of his conviction after entering a plea of no contest under Criminal Rule 11, to operating a vehicle while under the influence of alcohol and/or a drug of abuse or with a prohibited concentration of alcohol in the blood, breath, or urine, if the offense for which the plea is entered arose from the same incident that led to the suspension or denial.

(j) At the end of the suspension period under this section or division (B) of Ohio R.C. 4507.16 and upon the request of the person whose operator's or chauffeur's license or permit was suspended, the registrar shall return the operator's or chauffeur's license or permit to the person upon both of the following:

(1) A showing by the person that he has proof of financial responsibility, a policy of liability insurance in effect that meets the minimum standards set forth in section 4509.51 of Ohio R.C., 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 Ohio R.C.

(2) Payment by the person of a seventy-five dollar license reinstatement fee to the bureau of motor vehicles, which fee shall be deposited in the state treasury to the credit of the drivers' treatment and intervention fund. The fund shall be used to pay the costs of driver treatment and intervention programs operated pursuant to sections 3720.04 and 3720.06 of the Ohio R.C. The director of health shall determine the share of the fund that is to be allocated to treatment programs authorized by section 3720.04 of Ohio R.C., and the share of the fund that is to be allocated to intervention programs authorized by section 3720.06 of Ohio R.C.

(k) If a person is charged with a violation of section 333.01 and if the results of a chemical test administered pursuant to this section indicate that the blood of the person contained a concentration of ten-hundredths of one per cent or more by weight of alcohol, a concentration of ten-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his breath, or a concentration of fourteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his urine, at the time of the alleged offense, or refuses upon request to consent to a chemical test of his blood, breath, or urine to determine alcohol content under this section, the

judge or referee of the court or the mayor of the mayor's court immediately shall suspend the person's operator's or chauffeur's license or permit or nonresident operating privilege and notify the registrar of the suspension on a form approved by the registrar, if the judge, referee, or mayor of the court at the initial appearance, which shall be held within five days from the date of the citation or arrest, determines that one of the following is true:

(1) The person previously has been convicted of a violation of section 4511.19 of Ohio R.C. or a corresponding municipal ordinance.

(2) At the time of the arrest, the person's license or permit or nonresident operating privilege was suspended or revoked.

(3) The person caused death or serious physical harm to another person.

(4) The person failed to appear at the initial appearance.

(5) The judge, referee, or mayor of the court determines that the person's continued driving will be a threat to public safety.

The suspension shall continue until the complaint alleging a violation of section 333.01 (4511.19 Ohio R.C.) is adjudicated on the merits by the judge or referee of the trial court or mayor of the mayor's court, or until the judge, referee, or mayor, upon motion, determines by a preponderance of the evidence that there was no probable cause for the arrest. (ORC 4511.191)

333.012 DRIVING WITH SUSPENDED LICENSE

(a) No person whose operator's or chauffeur's license or permit or nonresident operating privilege has been suspended under section 4511.191 of Ohio R.C. shall operate a vehicle upon the highways or streets within the Municipality.

(b) It is an affirmative defense to any prosecution brought pursuant to this section that the alleged offender drove under suspension because of a substantial emergency, provided that no other person was reasonably available to drive in response to the emergency. (ORC 4511.192)

333.02 RECKLESS OPERATION ON STREETS, PUBLIC OR PRIVATE PROPERTY.

(a) No person shall operate a vehicle on any street or highway in willful or wanton disregard of the safety of persons or property. (ORC 4511.20)

(b) No person shall operate a vehicle on any public or private property other than streets or highways, in willful or wanton disregard of the safety of persons or property.

This subsection does not apply to the competitive operation of vehicles on public or private property when the owner of such property knowingly permits such operation thereon. (ORC 4511.201)

333.03 MAXIMUM SPEED LIMITS; ASSURED CLEAR DISTANCE AHEAD.

No person shall operate a motor vehicle in and upon the streets and highways at a speed greater or less than is reasonable or proper, having due regard to the traffic, surface and width of the street or highway and any other conditions, and no person shall drive any motor vehicle in and upon any street or highway at a greater speed than will permit him to bring it to a stop within the assured clear distance ahead.

It is prima-facie lawful for the operator of a motor vehicle to operate the same at a speed not exceeding the following:

- (a) Fifteen miles per hour on all alleys within the Municipality;
- (b) Twenty miles per hour when passing a school building or the grounds thereof during school recess and while children are going to or leaving school during the opening or closing hours, and when appropriate signs giving notice of the existence of the school are erected.
- (c) Twenty-five miles per hour in all other portions of the Municipality, except on State routes, through streets and through highways outside business districts;
- (d) Thirty-five miles per hour on all State routes or through streets and through highways within the Municipality outside business districts

(ORC 4511.21)

333.04 SLOW SPEED; POSTED MINIMUM SPEEDS.

(a) No person shall operate a vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or to comply with law.

(b) Whenever, in accordance with Ohio R. C. 4511.22(B), the minimum prima-facie speed limit of a controlled-access highway has been established and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. It is prima-facie unlawful for any person to operate a motor vehicle below the speed limits posted upon such signs except when necessary for safe operation or in compliance with law.

(ORC 4511.22)

333.05 SPEED LIMITATIONS OVER BRIDGES.

(a) No person shall operate a vehicle over any bridge or other elevated structure constituting a part of a street at a speed which is greater than the maximum speed that can be maintained with safety to such bridge or structure, when such structure is posted with authorized signs stating such maximum speed. Such signs shall be erected and maintained at a distance of at least 100 feet before each end of such structure.

(b) Upon the trial of any person charged with a violation of this section, proof of the determination of the maximum speed and the existence of such signs shall constitute prima-facie evidence of the maximum speed which can be maintained with safety to such bridge or structure. (ORC 4511.23)

333.06 SPEED EXCEPTIONS FOR EMERGENCY OR SAFETY VEHICLES.

The prima-facie speed limitations set forth in Section 333.03 do not apply to emergency vehicles or public safety vehicles when they are responding to emergency calls and are equipped with and displaying at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle and when the drivers thereof sound audible signals by bell, siren or exhaust whistle. This section does not relieve the driver of an emergency vehicle or public safety vehicle from the duty to drive with due regard for the safety of all persons using the street or highway. (ORC 4511.24)

333.07 DRAG RACING PROHIBITED.

(a) "Drag racing" is defined as the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to out-distance each other or the operation of one or more vehicles over a common selected course, from the same point to the same point, wherein timing is made of the participating vehicles involving competitive accelerations or speeds.

Persons rendering assistance in any manner to such competitive use of vehicles shall be equally charged as the participants. The operation of two or more vehicles side by side either at speeds in excess of prima-facie lawful speeds established by Section 333.03 or rapidly accelerating from a common starting point to a speed in excess of such prima-facie lawful speeds shall be prima-facie evidence of drag racing.

(b) No person shall participate in a drag race as defined in subsection (a) of this section upon any public road, street or highway in this Municipality.
(ORC 4511.251)

333.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for misdemeanor classifications and penalties.)