

**333.01 DRIVING OR PHYSICAL CONTROL WHILE UNDER THE INFLUENCE; EVIDENCE.**

(a) Operation Generally. 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~~ **EIGHT-HUNDREDTHS** of one per cent or more but less than seventeen-hundredths of one per cent by weight of alcohol in the person's blood.
- (3) The person has a concentration of ~~ten-hundredths~~ **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.
- (4) The person has a concentration of ~~fourteen-hundredths~~ **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.
- (5) The person has a concentration of seventeen-hundredths of one per cent or more by weight of alcohol in the person's blood.
- (6) 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.
- (7) 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.

(b) Operation After Under-Age Consumption. No person under twenty-one years of age shall operate any vehicle within this Municipality, if any of the following apply:

- (1) The person has a concentration of at least two-hundredths of one per cent but less than ~~ten-hundredths~~ **EIGHT-HUNDREDTHS** of one per cent by weight of alcohol in the person's blood;
- (2) The person has a concentration of at least two-hundredths of one gram but less than ~~ten-hundredths~~ **EIGHT-HUNDREDTHS** of one gram by weight of alcohol per two hundred ten liters of the person's breath;
- (3) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than ~~fourteen-hundredths~~ **ELEVEN-HUNDREDTHS** of one gram by weight of alcohol per one hundred milliliters of the person's urine.

(c) One Conviction Limitation. In any proceeding arising out of one incident, a person may be charged with a violation of subsection (a)(1) hereof and a violation of subsection (b)(1), (2) or (3) hereof, but the person may not be convicted of more than one violation of these subsections.

(d) Physical Control Generally. No person shall be in actual physical control of 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~~ **EIGHT-HUNDREDTHS** of one per cent or more by weight of alcohol in the person's blood.
- (3) The person has a concentration of ~~ten-hundredths~~ **EIGHT-HUNDREDTHS** of one gram or more by weight of alcohol per two hundred ten liters of the person's breath.
- (4) The person has a concentration of ~~fourteen-hundredths~~ **ELEVEN-HUNDREDTHS** of one gram or more by weight of alcohol per one hundred milliliters of the person's urine.

(e) Physical Control by Minors. No person under twenty-one years of age shall be in actual physical control of any vehicle within this Municipality, if any of the following apply:

- (1) The person has a concentration of at least two-hundredths of one per cent but less than ~~ten-hundredths~~ **EIGHT-HUNDREDTHS** of one per cent by weight of alcohol in the person's blood.
- (2) The person has a concentration of at least two-hundredths of one gram but less than ~~ten-hundredths~~ **EIGHT HUNDREDTHS** of one gram by weight of alcohol per two hundred ten liters of the person's breath.
- (3) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than ~~fourteen-hundredths~~ **ELEVEN-HUNDREDTHS** of one gram by weight of alcohol per one hundred milliliters of the person's urine.

(f) (1) Evidence; Tests; Immunity. In any criminal prosecution or juvenile court proceeding for a violation of this section, the court may admit evidence on the concentration of alcohol, drugs of abuse, or alcohol and drugs of abuse in the defendant's blood, breath, urine or other bodily substance at the time of the alleged violation as shown by chemical analysis of 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, drug, or alcohol and 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, drug, or alcohol and drug content of the blood, if in the opinion of the physician, nurse, technician, or chemist the physical welfare of the person would be endangered by the withdrawing of blood.

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

- (2) In a criminal prosecution or juvenile court proceeding for violation of subsection (a) hereof if there was at the time the bodily

substance was withdrawn a concentration of less than ~~ten-hundredths~~ **EIGHT-HUNDREDTHS** of one percent (0.10%) by weight of alcohol in the defendant's blood, less than ~~ten-hundredths (0.10)~~ **EIGHT-HUNDREDTHS** of one gram by weight of alcohol per 210 liters of the defendant's breath or less than ~~fourteen-hundredths (0.14)~~ **ELEVEN-HUNDREDTHS** of one gram by weight of alcohol per 100 milliliters of the defendant's urine, ~~such~~ **THAT** fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This subsection does not limit or affect a criminal prosecution or juvenile court proceeding for a violation of subsection (b) hereof.

- (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 or 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 the person's 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.

- (4) A. As used in subsections (f)(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 this section, 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:
1. The officer may testify concerning the results of the field sobriety test so administered.
  2. 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.
  3. If testimony is presented or evidence is introduced under subsection (f)(4)B.1. or 2. 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. Subsection (f)(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 subsection, from considering evidence or testimony that is not otherwise disallowed by subsection (f)(4)B. of this section.
- (5) 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 a person. (ORC 4511.19)