

OHIO CRIMINAL SENTENCING COMMISSION

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TRAFFIC SENTENCING TABLES: DUS, OVI, & VEHICULAR HOMICIDES/ASSAULTS

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Updated 1.1.05

Scope. The tables should bring the swirl of recent traffic bills into focus. They reflect:

- **S.B. 123** (the large traffic reform bill), effective 1.1.04;
- **H.B. 87** (the .08% bill), effective 6.30.03;
- **H.B. 163** (the 2004 OVI *et cetera* bill), effective 9.23.04; and
- **H.B. 52** (the vehicular homicide *et cetera* bill), effective 6.1.04.

Headnotes. Keep these notes in mind when reading the tables:

- **Offense Levels.** M-1 = 1st degree misdemeanor, etc. MM = minor misdemeanor. F-1 = first degree felony, etc.
- **Driving Privileges.** The general rule is that a court may grant privileges during any court-imposed suspension, unless a statute forbids them (§4510.021(A)). However, no privileges are available during a BMV-imposed suspension, unless a statute allows them (§4510.021(B)).
- **Immobilizing or Disabling (“I or D”) Devices.** Defined in §4510.01(C) & (D). If not mandated, they are an optional condition of *any court suspension*. There are exceptions for non-residents and certain employees (§4510.43 & §4510.021(C)).
- **Impounding Plates.** §4507.02(B) governs license plates impoundment generally.
- **Reinstatement Fees.** Paid to BMV to get a license back after a suspension. Generally: \$0 for short suspensions; \$30 for suspensions of 90 days or more; & much higher (\$425-\$500) for OVI-related suspensions & some FR suspensions.
- **Remedial Driving Course.** If not required, a remedial driving course may be made a condition of *any court suspension* (§4510.01(C)).
- **Restricted License Plates.** Currently, scarlet lettering on a yellow field. They’re issued under §4503.231. If not mandated, §4510.021(C) says the court *may* make the plates a condition of granting limited driving privileges. There are exceptions for non-residents and certain employees.

DUS & RELATED OFFENSES

Table 1: SUSPENSION CLASSES - §4510.02					
COURT IMPOSED SUSPENSIONS – Div. (A)			ADMIN. (BMV) SUSPENSIONS – Div. (B)		
CLASS	LENGTH ^a	DRIVING PRIVILEGES	CLASS	LENGTH ^b	DRIVING PRIVILEGES
1	Life	Yes unless <i>prohibited</i> by statute	A	3 years	No unless <i>authorized</i> by statute
2	3 years to life		B	2 years	
3	2 to 10 years		C	1 year	
4	1 to 5 years		D	6 months	
5	6 months to 3 years		E	3 months	
6	3 months to 2 years		F	Until conditions are met	
7	Not more than 1 yr.				

^a The judge chooses a definite term from the range.

^b BMV imposes the definite period specified.

Table 2: DRIVING UNDER SUSPENSION OR VIOLATING A RESTRICTION - §4510.11

OFFENSE NUMBER	OFFENSE LEVEL	JAIL TERM	FINE	LIC. SUSPENSION	IMMOBILIZE VEHICLE	FORFEIT VEHICLE	IMPOUND PLATES	DRIVING PRIVILEGES	RESTRICTED PLATES	I or D DEVICE	DRIVING COURSE
1 st	M-1	0 to 180 days	\$0 to \$1,000	"Mandatory Class 7" ^a (up to 1 yr.)	Mandatory 30 days if owner	No	Mandatory 30 days if owner	Optional under General Rule	Mandatory if grant privileges	Optional §4510.021(C)	Optional §4510.02(C)
2 nd					Mandatory 60 days if owner		Mandatory 60 days if owner				
3 rd or more					N/A	Mandatory if owner	Mandatory if owner				

^a Various sections call for a mandatory Class 7 (up to 1 year) suspension. It is unclear what this means since there is no minimum in the range. Must a judge impose a sentence of one day? One hour? Can there be a mandatory 0 days suspension? H.B. 163 failed to make this clear.

Table 3: DRIVING WITHOUT A VALID LICENSE - §4510.12

OFFENSE FACTS	OFFENSE LEVEL	JAIL TERM	FINE	LIC. SUSPENSION	IMMOBILIZE VEHICLE	FORFEIT VEHICLE	IMPOUND PLATES	DRIVING PRIVILEGES	RESTRICTED PLATES	I or D DEVICE	DRIVING COURSE
Expired ≤ 6 mo., no prior in 3 years	MM	None	\$0 to \$150	No	No	No	Optional under §4507.164 (A) if suspend license	Optional under General Rule	Optional or Mandatory ^c	Optional §4510.021 (C)	Optional §4510.02 (C)
Expired > 6 mo., no prior in 3 years	M-4	0 to 30 days	\$0 to \$250								
2 nd in 3 years	M-3	0 to 60 days	\$0 to \$500	"Mandatory Class 7" ^a (up to 1 yr.) if expired > 6 months							
3 rd in 3 years	M-2	0 to 90 days	\$0 to \$750								
4 th or more in 3 years	M-1	0-180 days	\$0 to \$1,000								
Never Had License ^a											

^a See the footnote to Table 2 above.

^b Effective 6.1.04 under H.B. 52. This offense did not have a clear penalty between 1.1.04 and 6.1.04.

^c Under little-known law predating S.B. 123, restricted plates are mandatory if the court grants driving privileges to use *the vehicle with impounded plates*. See §4503.231(B) & §4507.02(B)(1). If privileges to drive other vehicles are granted, the plates are optional under §4510.021(C).

Table 4: FAILURE TO REINSTATE A LICENSE - §4510.21

OFFENSE NUMBER	OFFENSE LEVEL	JAIL TERM	FINE	LIC. SUSPENSION	IMMOBILIZE VEHICLE	FORFEIT VEHICLE	IMPOUND PLATES	DRIVING PRIVILEGES	RESTRICTED PLATES	I or D DEVICE	DRIVING COURSE
Any	M-1	0-180 days	\$0 to \$1,000	Optional Class 7	No	No	Mandatory, no time specified ^a	Optional under General Rule	Optional or Mandatory ^b	Optional §4510.021(C)	Optional §4510.02(C)

^a Under §4507.02(B).

^b Under little-known law predating S.B. 123, restricted plates are mandatory if the court grants driving privileges to use *the vehicle with impounded plates*. See §4503.231(B), by reference to §4507.02(B)(1). If privileges to drive other vehicles are granted, the plates are optional.

Table 5: DRIVING UNDER A FINANCIAL RESPONSIBILITY SUSPENSION - §4510.16

OFFENSE NUMBER	OFFENSE LEVEL	JAIL TERM	FINE	LIC. SUSPENSION	IMMOBILIZE VEHICLE	FORFEIT VEHICLE	IMPOUND PLATES	DRIVING PRIVILEGES	RESTRICTED PLATES	I or D DEVICE	DRIVING COURSE
1 st in 5 Years	M-1	0 to 180 days	\$0 to \$1,000	"Mandatory Class 7" ^b (Up to 1 yr)	Mandatory 30 days if owner	No	Mandatory 30 days if owner	Optional under General Rule	Optional or Mandatory ^a	Optional §4510.021(C)	Optional §4510.02(C)
Mandatory 60 days if owner					Mandatory 60 days if owner						
2 nd in 5 Years					N/A	Mandatory if owner; Vehicle value if transferred	Mandatory if owner				
3 rd or More in 5 Years											

^a See footnote a in Table 4 above.

^b Various sections call for a mandatory Class 7 (up to 1 year) suspension. It is unclear what this means since there is no minimum in the range. Must a judge impose a sentence of one day? One hour? Can there be a mandatory 0 days suspension? H.B. 163 failed to make this clear.

Table 6: POINTS PER OFFENSE & DRIVING UNDER A 12 POINTS SUSPENSION ^a

SIX POINT OFFENSES - §4510.036(C)(1)-(8)											
Aggravated Vehicular Homicide; Vehicular Homicide; & Vehicular Manslaughter				§§2903.06(A)(1) & (2); 2903.06(A)(3); & 2903.06(A)(4)							
Aggravated Vehicular Assault & Vehicular Assault				§2903.08(A)(1) & §2903.08(A)(2)							
Fleeing, Eluding, or Ignoring Officer & Failure to Stop at Collision Scene				§§2921.331, 4549.02, & 4549.021							
Street Racing				§4511.251							
Any DUS (Including under OVI & FR suspensions & Failing to Reinstate License)				§§4510.11, 4510.14, 4510.16, & 4510.21							
Operating a Vehicle Under the Influence of Alcohol and/or Drugs (OVI)				§4511.19(A)							
Unauthorized Use of a Motor Vehicle				§2913.03							
Any felony motor vehicle violation or any felony committed with a motor vehicle				Various							
FOUR POINT OFFENSES - §4510.036(C)(9)-(11)(a)											
Underage Drinking and Driving (not OVI)				§4511.19(B)							
Operating in Willful or Wanton Disregard of Property or Persons				§4511.20							
Exceeding the Speed Limit by 30 mph or more				Various							
TWO POINT OFFENSES - §4510.036(C)(11)(b)-(13)											
Exceeding a Speed Limit of 55 mph or higher by > 10 mph, but < 30 mph				Various							
Exceeding a Speed Limit of 55 mph or less by > 5 mph, but < 30 mph											
Operating a vehicle in violation of a Registrar's restriction											
All Other Moving Violations reported & not covered by this table											
ZERO POINT OFFENSES - §4510.036(C)(11)(b)-(13)											
Exceeding a Speed Limit by < 5 mph over the limit in town (generally) or by < 10 mph over on highways				Various							
Being in Physical Control of a Vehicle While Impaired				§4511.194							
DRIVING UNDER A POINTS SUSPENSION - §4510.037(J) ^b											
OFFENSE NUMBER	OFFENSE LEVEL	MANDATORY JAIL TERM	FINE	LIC. SUS-PENSION	IMMOBILIZE VEHICLE	FORFEIT VEHICLE	IMPOUND PLATES	DRIVING PRIVILEGES	RESTRICTED PLATES	I or D DEVICE	DRIVING COURSE
Any	M-1	3 days; Optional up to 180 days	\$0 to 1,000	Not specified	No	No	Optional ^c	No under BMV General Rule	No	No	Mandatory ^b §4510.02(C)

^a Points apply to violations of the ORC & comparable municipal ordinances. 12 points in 2 years trigger a Class D suspension. A person with 2 to 12 points may complete an approved remedial driving course and receive a 2 point credit. S.B. 123 allows one 2-point credit in 3 years & 5 2-point credits in a lifetime. However, note that BMV can't credit 2 points for completing a remedial course ordered by a court as a condition of regaining a license (§4510.037(B) & (C)).

^b To regain a license after a points suspension: pass a remedial driving course; pass the driver's license exam again; & provide FR proof (§4510.038).

^c Under §4507.164, assuming a suspension can be imposed.

Table 7: DRIVING UNDER AN OVI SUSPENSION - §4510.14

OFFENSE IN 6 YRS.	OFFENSE LEVEL	MANDATORY JAIL TERM	FINE	LIC. SUSPENSION	IMMOBILIZE VEHICLE	FORFEIT VEHICLE	IMPOUND PLATES	DRIVING PRIVILEGES	RESTRICTED PLATES	I or D DEVICE	DRIVING COURSE
1 st	M-1	3 days; optional to 180 days OR 30 days EMHA ^a ; Optional to 180 days	\$250 to \$1,000	"Mandatory Class 7" ^b (up to 1 year)	Mandatory 30 days if owner	No	Mandatory 30 days if owner	Optional under General Rule	Mandatory if grant privileges	Optional \$4510. - 021(C)	Optional \$4510.02 (C)
2 nd		10 days; optional to 1 yr. OR Mandatory 90 days EMHA ^a , Optional to 1 yr.	\$500 to \$2,500		Mandatory 60 days if owner		Mandatory 60 days if owner				
3 rd or more	Unclassified M	30 days; optional up to 1 year (no EMHA option)			N/A	Mandatory if owner; Vehicle value if transferred	Mandatory if owner \$4507.02(B)				

^a H.B. 163 allows use of house arrest with continuous alcohol monitoring in OVI cases, but did not change the DUOVIS statute.

^b Various sections call for a mandatory Class 7 (up to 1 year) suspension. It is unclear what this means since there is no minimum in the range. Must a judge impose a sentence of one day? One hour? Can there be a mandatory 0 days suspension? H.B. 163 failed to make this clear.

Table 8: WRONGFUL ENTRUSTMENT - §4511.203

OFFENSE NUMBER	OFFENSE LEVEL	JAIL TERM	FINE	LICENSE SUSPENSION	IMMOBILIZE VEHICLE	FORFEIT VEHICLE	IMPOUND PLATES	DRIVING PRIVILEGES	RESTRICTED PLATES	I or D DEVICE	DRIVING COURSE
1 st	M-1	0 to 180 days	\$0 to \$1,000	"Mandatory Class 7" ^b (up to 1 year)	Mandatory 30 days	No	Mandatory 30 days	Optional under General Rule	Optional \$4510.021(C)	Optional \$4510.021(C)	Optional \$4510.02(C)
2 nd					Mandatory 60 days		Mandatory 60 days				
3 rd or more					N/A	Mandatory if owner; Vehicle value if transferred	N/A				

^b See footnote ^b to Table 7 above.

OVI & RELATED OFFENSES

Table 9: IMPAIRED DRIVING "PER SE" LEVELS & CITATIONS - §4511.19(A)				
SUBSTANCE TESTED	"LOW" PER SE LEVELS		"HIGH" PER SE LEVELS	
	MINIMUM ^a	§4511.19 ... ^b	MINIMUM	§4511.19 ... ^b
Whole Blood	.08%	(A)(1)(b)	.17%	(A)(1)(f)
Blood Serum or Plasma	.096%	(A)(1)(c)	.204%	(A)(1)(g)
Breath	.08 gram	(A)(1)(d)	.17 gram	(A)(1)(h)
Urine	.11 gram	(A)(1)(e)	.238 gram	(A)(1)(i)

^a .08% BAC & equivalent standards took effect 6.30.03. However, the blood serum or plasma standard took effect 1.1.04.

^b Note that citations change with the insertion of serum or plasma in S.B. 123, effective 1.1.04, and under H.B. 163, eff. 9.23.04. However, that bill did not change the underage serum or plasma standards (Table 10 below).

Table 10: UNDERAGE CONSUMPTION "PER SE" LEVELS - §4511.19(B)		
SUBSTANCE TESTED	STANDARD ^a	§4511.19 ... ^b
Whole Blood	.02% to .08%	(B)(1)
Blood Serum or Plasma	.03 to .096%	(B)(2)
Breath	.02 to .08 gram	(B)(3)
Urine	.028 to .11 gram	(B)(4)

^a & ^b See Table 9 above.

Table 11: ADMINISTRATIVE LICENSE SUSPENSIONS - §4511.191				
FOR REFUSING A CHEMICAL TEST - 4511.191(B) ^a				
REFUSALS IN 6 YEARS	MANDATORY LICENSE SUSPENSION	DRIVING PRIVILEGES §4510.13(A)(6)	IMMOBILIZING OR DISABLING DEVICE 4510.021(C) ^c	REINSTATEMENT REQUIREMENTS
1 st	Class C (1 year)	After 30 days	No	\$425 fee + FR proof
2 nd	Class B (2 years)	After 90 days		
3 rd	Class A (3 years)	After 1 year		
4 th or more	5 years	After 3 years		
FOR TESTING OVER THE LEGAL LIMIT - §4511.191(C)				
PRIOR OVIs IN 6 YEARS ^b	MANDATORY LICENSE SUSPENSION	DRIVING PRIVILEGES §4510.13(A)(5)	IMMOBILIZING OR DISABLING DEVICE 4510.021(C) ^c	REINSTATEMENT REQUIREMENTS
0	Class E (90 days)	After 15 days	Optional	\$425 fee + FR proof
1	Class C (1 year)	After 30 days		
2	Class B (2 years)	After 180 days	Mandatory	
3 or more	Class A (3 years)	After 3 years		

^a S.B. 163 increased OVI penalties for repeat offenders—within 20 years—who refuse and are convicted—§4511.19(A)(2)).

^b Number of convictions under §4511.19(A) or (B) within 6 years of the failed test. Includes prior "equivalent offenses". The next table lists "equivalent offenses".

^c §4510.13(A)(5) takes pains to make the I or D devices optional on the 1st or 2nd test over the limit in 6 years (and mandatory for subsequent ALSs during the period). No such language appears in §4510.13(A)(6) governing refusal ALSs.

Table 12: PRIOR CONVICTIONS FOR OVI PURPOSES: "EQUIVALENT OFFENSES" - §4511.181	
<ul style="list-style-type: none"> ▪ Any violation of §4511.19(A) or (B), including under former law; ▪ Involuntary manslaughter with an impaired driving finding under §2903.04(D); ▪ Assault under §2903.06 or §2903.08 related to impairment; 	<ul style="list-style-type: none"> ▪ Any municipal OVI ordinance violation; ▪ Vehicular homicide or assault under §2903.06 or §2903.08 related to impairment; ▪ Any existing or former law of another state or the US substantially equivalent to §4511.19(A) or (B).

Table 13: MISDEMEANOR OVI PENALTIES - §4511.19(A) & (G)

OFFENSES IN 6 YEARS	LEVEL	MANDATORY INCARCERATION ^b	TREATMENT	MANDAT. FINE	MANDATORY SUSPENSION ^f	DRIVING PRIVILEGES/ I OR D DEVICE	IMMOBILIZE VEHICLE	FORFEIT VEHICLE	IMPOUND PLATES	RESTRICTED PLATES					
1 st if < .17 BAC ^a	M-1	3 days jail OR DIP ^c ; Optional jail up to 6 months	Optional unless DIP ^c replaces jail term	\$250 to \$1,000	Class 5 (6 mo. to 3 yrs.) + \$425 reinstatement fee	After 15 days I or D device optional §4510.13(A)(5)	No	No	Optional under §4507.164 (A) if license suspended	Optional if privileges §4510.13(A)(7)					
1 st if ≥ .17 BAC ^a OR if refuse test + have prior OVI in 20 years ^d		6 days jail OR 3 days jail + 3 days DIP ^c ; Optional jail up to 6 months													
2 nd if < .17 BAC ^a		10 days jail OR 5 days jail + 18 days EMHA/ CAMHA ^e ; Optional jail up to 6 months	Mandatory if found dependent, Optional otherwise;						\$350 to \$1,500		Class 4 (1 to 5 yrs.) + \$425 reinstatement fee	After 30 days I or D device optional §4510.13(A)(5)	Mandatory 90 days if owner ^g	Mandatory 90 days if owner ^g	Mandatory if grant privileges after "hard" suspension §4510.13 (A)(7)
2 nd if ≥ .17 BAC ^a OR 2 nd if refuse test ^d		20 days jail OR 10 days jail + 36 days EMHA/ CAMHA ^e ; Optional jail up to 6 months	Optional DIP ^c												
3 rd if < .17 BAC ^a	Unclassified M	30 days jail OR 15 days jail + 55 days EMHA/ CAMHA ^e ; Optional jail up to 1 year	Mandatory alcohol & drug program under §3793.02	\$550 to \$2,500	Class 3 (2 ^h to 10 yrs.) + \$425 reinstatement fee	After 180 days ⁱ with mandatory I or D device rest of 1 st year; Optional after 1 year	Mandatory if owner ^g §4511.195 (B)(1)(a) & (D)	Mandatory if owner ^g ; Vehicle value if transfer	Mandatory if owner ^g						
3 rd if ≥ .17 BAC ^a OR 3 rd if refuse test ^d		60 days jail OR 30 days jail + 110 days EMHA/ CAMHA ^e ; Optional jail up to 1 year													

Offenders are placed in each box based on the number of priors in 6 years. However, 5 priors in 20 years moves the offense to the F-4 level (see the box in Table 14).

NOTES: These footnotes apply to the misdemeanor OVI Table above and to the felony OVI Table below.

^a See the *Per Se* tables above.

^b Terms are in "consecutive days".

^c DIP = Drivers' Intervention Program certified by DADAS (§3793.10).

^d Find the box based on # within 6 years. If the driver refused to test in this case, and has a prior conviction within 20 years, H.B. 163 requires "high-end" penalties.

^e EMHA = electronically monitored house arrest. CAMHA = Continuous Alcohol Monitoring House Arrest under H.B. 163. Note: To use EMHA or CAMHA as a substitute for jail, court must make written finding on the record that the unavailability of jail space means the offender will not begin to serve within 60 days of sentencing (§4511.19(G)(3)).

^f Under §4510.13. Generally, courts can't reduce a suspension imposed for OVI below the minimum suspension authorized for the class. The exception is that a Class 3 suspension (2 to 10 years) imposed for a 3rd offense can be reduced to one year (§4510.13(A)(2)).

^g The vehicle's registration denotes ownership.

^h However, the minimum seems to be 1 year under §4510.13(A)(2)(b).

ⁱ Note that §4510.13(A)(3) doesn't allow privileges when the offender has 3 or more priors in 6 years. The intent was not to count the instant case as a prior.

Table 14: FELONY OVI PENALTIES - §4511.19(A) & (G)

OFFENSE NUMBER	LEVEL	MANDATORY INCARCERATION	TREATMENT	MANDAT. FINE	MANDATORY SUSPENSION ^f	DRIVING PRIVILEGES)/ I or D DEVICE	IMMOBILIZE VEHICLE	FORFEIT VEHICLE	IMPOUND PLATES	RESTRICTED PLATES
4 th or 5 th in 6 years if < .17 BAC ^a or 6 th in 20 years w/o spec.	F-4	60 days LI ^j ; optional jail to 1 year; or 60 days prison; optional 6 to 30 mo. prison (no LI or other CC ^k)	Mandatory to alcohol & drug program under §3793.02	\$800 to \$10,000	Class 2 (3 yrs. to life) + \$425 reinstatement fee	After 3 years Mandatory I or D device §4510.13(A)(5) [but also see (A)(3)]	Mandatory if owner ^g §4511.195(D)	Mandatory if owner ^g ; Fine = vehicle value if transferred	Mandatory if owner ^g	Mandatory if owner ^g & grant privileges after 3 years §4510.13 (A)(7)
4 th or 5 th in 6 years if ≥ .17 BAC ^a or 6 th in 20 years w/o spec or 4 th or 5 th if refuse test ^d		120 days LI ^j ; optional jail up to 1 year total (no prison); or 120 days prison; Optional 6 to 30 months in prison (no LI or other CC ^k)								
5 or more priors in 20 years with spec		1, 2, 3, 4, or 5 years prison (supersedes other misdemeanor & felony boxes above & below) with spec. ^l								
2 nd felony anytime if < .17 BAC ^a	F-3	60 days prison; Optional prison up to 5 years (no LI ^j or CC ^k)								
2 nd felony anytime if ≥ .17 BAC ^a or 2 nd felony anytime if refuse test ^d		120 days prison; Optional prison up to 5 years (no LI ^j or CC ^k)								

The footnotes to the misdemeanor OVI table (Table 13) also apply to this table. Also:
^jLI = Local incarceration. ^kCC = Community control. ^l See §2941.1413 spec & §2929.13(G)(1) & (2).

Table 15: PHYSICAL CONTROL OF A VEHICLE UNDER THE INFLUENCE - §4511.194

OFFENSE NUMBER	LEVEL	INCARCERATION	TREATMENT	FINE	LICENSE SUSPENSION	DRIVING PRIVILEGES	IMMOBILIZE VEHICLE	FORFEIT VEHICLE	IMPOUND PLATES	RESTRICTED PLATES
Any	M-1	0 to 180 days	Optional ^a	\$0 to \$1,000	Optional Class 7	Optional	No	No	Optional ^b	Optional

^a Up to one year. ^b Under §4507.164 (A) if license suspended

Table 16: OPERATING A VEHICLE AFTER UNDERAGE ALCOHOL CONSUMPTION - §4511.19(B) ^a

BETWEEN AGES 18 AND 21 – §4511.19(B) & (H): ADULT COURT										
OFFENSE NUMBER	LEVEL	INCARCERATION (§2929.24)	TREATMENT	FINE (§2929.28)	MANDATORY LICENSE SUSPENSION	DRIVING PRIVILEGES	TO REGAIN LICENSE (§4510.038)	IMPOUND PLATES	IMMOBILIZE OR FORFEIT	RESTRICTED PLATES
1 in 1 year	M-4	0 to 30 days jail	Optional	\$0 to \$250	Class 6 (3 mos. to 2 years); Can't reduce 1 st 60 days ²	After 60 days (none if 3 or more under §4510.13(A)(3))	Pass remedial driving course + new driver's license exam	Optional under §4507.164 (A) if license suspended	No	Optional §4510.021(C)
2 or more in 1 year	M-3	0 to 60 days jail		\$0 to \$500	Class 4 (1 to 5 years); Can't reduce 1 st 60 days ²					
PENALTY FOR 5 PRIORS IN 20 YEARS SPEC – §2929.24 & H.B. 163'S §2941.1414										
Any	In addition to the basic penalties, a "mandatory" jail term of "up to 6 months" may be imposed for 5 or more prior equivalent offenses in 20 years.									
UNDER AGE 18 – §§4511.19(B) & (H), 2152.19, & §2152.21: JUVENILE COURT										
1 in 1 year	M-4	If delinquent: 0 to 90 days detention §2152.19(A)(3);	Optional	\$0 to \$250	If delinquent: Class 6 (3 mos. – 2 yrs.); Can't reduce 1 st 60 days; If JTO ^b : Class 6 (but can terminate if finish program)	If delinquent: After 60 days ^c	If delinquent: Pass remedial driving course & new driver's license exam	May be Optional under §4507.164 (A) if license suspended	No	Not required
2 or more in 1 year	M-3	If JTO ^b : None §2152.21(B)		\$0 to \$500	If delinquent: Class 4 (1 to 5 years) Can't reduce 1 st 60 days; If JTO ^b : Class 6 (can end if finish program)					

^a This table only covers violations of §4511.19(B). Underage violations of §4511.19(A) for 18, 19, & 20 year olds generally follow the adult rules (Tables 13 & 14). As for violations of §4511.19(A) by those under age 18, juvenile law (§2152.21) authorizes *optional* detention of up to 5 days and mandates a Class 6 suspension, which can be terminated for completing a court-specified program.

^b JTO = Juvenile traffic offender under §2152.21. ^c Under §4510.13(A)(2)(d) & (A)(5)(c) for delinquency & under §2152.21(B) for JTOs.

VEHICULAR HOMICIDES & ASSAULTS

Table 17: VEHICULAR DEATHS Under §2903.06

OFFENSE	OFF. LEVEL	INCARCERATION	OPTIONAL FINE	LIC. SUSPENSION	DRIVING PRIVILEGES	RESTRICTED PLATES	IMPOUND PLATES	I or D DEVICE	DRIVING COURSE
AGGRAVATED VEHICULAR HOMICIDE (AVH) - §2903.06(A)(1) & (2)									
AVH – OVI (A)(1)	F-2	Mandatory 2 year prison term; Optional to 8 years	Up to \$7,500	Mandatory Class 1 (lifetime)	Optional under General Rule ^f	Optional §4510.021(C)	Optional §4507.164(A)	Optional §4510.021 (C)	Optional §4510.02 (C)
AVH – OVI if DUS &/or have a listed prior ^a	F-1	Mandatory 3 year prison term; Optional to 10 years	Up to \$10,000						
AVH–Reckless ^e, including in CZ ^d (A)(2)(a) & (b)	F-3	Optional 1 to 5 year prison term ^e	Up to \$5,000	Mandatory Class 2 (3 years to life)					
AVH–Reckless ^e, if DUS &/or with a listed prior ^b	F-2	Mandatory 2 year prison term; Optional to 8 years	Up to \$7,500						
VEHICULAR HOMICIDE (VH) - §2903.06(A)(3)									
VH – Negligent (A)(3)(a)	M-1	Optional jail term Up to 180 days ³	Up to \$1,000	Mandatory Class 4 (1 to 5 years)	Optional under General Rule ^f	Optional §4510.021 (C)	Optional §4507.164(A)	Optional §4510.021 (C)	Optional §4510.02 (C)
VH – CZ ^d speeding (A)(3)(b)		Mandatory 15 day jail term; Optional to 180 days							
VH – Negligent or CZ ^d speeding if DUS &/or with a listed prior ^b	F-4	Mandatory 6 month prison term; Optional to 18 months	Up to \$2,500	Mandatory Class 3 (2 to 10 yrs.)					
VEHICULAR MANSLAUGHTER (VM) - §2903.06(A)(4)									
VM – As proximate result of any other Title 45 MM (A)(4)	M-2	Optional jail term up to 90 days	Up to \$750	Mandatory Class 6 (3 mo. – 2 years)	Optional Under General Rule ^f	Optional §4510.021(C)	Optional §4507.164(A)	Optional §4510.021 (C)	Optional §4510.02 (C)
VM . . . if DUS &/or with a listed prior ^b	M-1	Optional jail term up to 180 days	Up to \$1,000	Mandatory Class 4 (1 to 5 years)					

Note additional mandatory AVH terms in Table 18 below.
All footnotes appear after the vehicular assault table (Table 19) below.

Table 18: AVH – ADDITIONAL MANDATORY PRISON TERMS ^a

SPECIFICATION	CITATIONS	ADDED PRISON TERM	CONDITIONS
AVH: Peace officer victim ^b	§§2903.06(A)(1) & (2), 2929.14(D)(5) & (E), & 2941.1413	Mandatory 5 years	Specified term is prior to & consecutive to underlying AVH
AVH: 3 or more prior OVI offenses (no look back limit) ^c	§§2903.06(A)(1) & (2), 2929.14(D)(6), & 2941.1414	Mandatory 3 years	

^a For juvenile offenders, see §§2152.17(A)(2) & (3), 2941.1413(B), & 2941.1414(B) of H.B. 52. ^b “Peace officer” is defined in §2935.01(B).

^c There is no limit to the “look back” for counting prior OVIs under this spec. Priors include §4511.19(A) or (B) or equivalent offenses (defined in §4511.181(A)).

Table 19: VEHICULAR ASSAULTS Under §2903.08

OFFENSE	OFF. LEVEL	INCARCERATION	OPTIONAL FINE	LICENSE SUSPENSION	DRIVING PRIVILEGES	RESTRICTED PLATES	IMPOUND PLATES	I or D DEVICE	DRIVING COURSE
AGGRAVATED VEHICULAR ASSAULT (AVA) - §2903.08(A)(1)									
AVA – OVI (A)(1)	F-3	Mandatory 1 year prison term; Optional to 5 years	Up to \$5,000	Mand. Class 3 (2 to 10 years)	Optional Under General Rule ^f	Optional §4510.021(C)	Optional §4507.164 (A)	Optional §4510.021 (C)	Optional §4510.02(C)
AVA – OVI if DUS &/or have a listed prior ^a	F-2	Mandatory 2 year prison term; Optional to 8 years	Up to \$7,500	Mandatory Class 2 (3 years to life)					
VEHICULAR ASSAULT (VA) - §2903.08(A)(2) & (A)(3)									
VA – Reckless ^c including in CZ ^d (A)(2)	F-4	Optional prison term from 6 to 18 months ^e	Up to \$2,500	Mandatory Class 4 (1 to 5 years)	Optional Under General Rule ^f	Optional §4510.021(C)	Optional §4507.164 (A)	Optional §4510.021 (C)	Optional §4510.02(C)
VA – Reckless ^c Including in CZ ^d if DUS &/or have a listed prior ^b	F-3	Mandatory 1 year prison term; Optional to 5 years	Up to \$5,000	Mandatory Class 3 (2 to 10 years)					
VA – Construction Zone ^d Speeding (A)(3)	M-1	Mandatory 7 day jail term; Optional up to 180 days	Up to \$1,000	Mandatory Class 4 (1 to 5 yrs.)					
VA – CZ ⁴ Speeding if DUS &/or a listed prior ^b	F-4	Mandatory 6 month prison term; Optional to 18 months	Up to \$2,500	Mandatory Class 3 (2 to 10 years)					

See footnotes below.

NOTES for Tables 17 & 19:

^a In addition to being DUS at the time of the offense these prior offenses increase penalties for OVI AVH & OVI AVA: (1) Violation of §2903.06 or §2903.08; (2) Another traffic-related homicide, manslaughter, or assault; (3) 3 or more OVIs—or 2 or more felony OVIs—in prior 6 years; (4) 3 or more boating OVIs in prior 6 years (§1547.11(A)); (5) 3 or more aircraft OVIs (§4561.15(A)(3)); (6) 3 or more of any combination of (3), (4), or (5). Also municipal equivalent offenses also count as priors (§2903.06(B)(2)(a)).

^b In addition to being DUS at the time of the offense, these prior offenses increase incarceration for Reckless AVH and any VH, VM, & VA: Any prior traffic-related homicide, manslaughter, or assault offense (see, *e.g.*, §2903.06(B)(3)).

- Also, the VA statute adds that it is an enhancing prior when, in the same course of conduct as reckless VA, the driver violated §§4549.02, 4549.021, or 4549.03. These statutes cover the duty to stop, *et cetera*, after a collision with a vehicle or damaging real estate (§2903.08(C)).

^c “Reckless” AVH & VA have 2 aspects carrying the same penalties: 1. Recklessly causing a death generally; 2. Causing the death as the proximate result of committing “a reckless operation offense” in a construction zone. The quoted phrase means a violation of §4511.20 or equivalent ordinance, which in turn means operating “in willful or wanton disregard of the safety of persons or property”, itself an M-3.

^d CZ = “Construction zone” has the same meaning as in §5501.27. The prosecution must prove that the zone was clearly marked as element of the offense. H.B. 52 addresses signage in other provisions.

^e The Code says (A)(2) AVH & AVA violations bear mandatory prison terms when the person was DUS at the time of the offense or has a prior equivalent offense. Since that’s the test for moving a reckless AVH from an F-3 to an F-2, there does not appear to be a true mandatory in this box.

Similarly, (E) expressly calls for a mandatory prison term for an (A)(3)(a) violation, but then qualifies it by saying that the person gets the mandatory only if he or she was DUS at the time of the offense or has a prior equivalent offense. Since those factors take the offense into higher box, there does not appear to be a mandatory in this box.

Also, the inconsistent use of prior offenses—prior violations of §2903.06 & 2903.08 and/or more generic references to prior traffic homicides, *etc.*—may lead some to the unintended conclusion that the mandatory incarceration required by the former isn’t always required by the latter.

^f As noted, the general rule is that a court may grant privileges during any suspension imposed by the court, unless a statute forbids them (§4510.021(A)). Here the statute mandates a suspension, but does not make it “hard”. While perhaps unintended, it seems that privileges may be granted.