

FILED

IN THE MOUNT VERNON MUNICIPAL COURT
MOUNT VERNON, OHIO

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MT. VERNON MUNICIPAL CT.
LISA R. MAZZA, CLERK

IN RE: LIMITED DRIVING RIGHTS :
DURING A SUSPENSION : JOURNAL ENTRY

**POLICY FOR GRANTING LIMITED DRIVING RIGHTS DURING
COURT ORDERED OVI, OVUAC, PHYSICAL CONTROL
OR BMV/ALS SUSPENSION**
(Effective April 20, 2021)

I. Limited Driving Privileges: The Court may grant limited driving privileges for the following purposes: (1) occupational, educational, vocational, or medical purposes; (2) taking the driver’s or commercial driver’s license examination; (3) attending court-ordered treatment; (4) attending any Court proceeding related to the offense for which the offender’s suspension was imposed; (5) transporting a minor to a child care provider, day-care, preschool, school, or to any other location for purposes of receiving child care; and (6) any other purpose the Court determines to be appropriate.

II. Operating a Vehicle under the Influence Suspensions:

First Offense in 10 Years: The Court may grant a Defendant limited driving privileges after conviction of a first offense of Operating a Vehicle under the Influence (OVI) of alcohol/drugs as soon as permitted by law (after expiration of the hard time), after completion of a Court approved application for limited driving rights demonstrating a need for the limited privileges requested and payment of the additional court costs. The Defendant may be limited to driving in a vehicle that has restricted plates (registration) displayed in lieu of the regular vehicle registration. For unlimited driving privileges the Defendant shall drive a vehicle that is equipped with an approved ignition interlock device (IID) that is monitored on a monthly basis.¹ For unlimited driving privileges the Defendant shall obtain a restricted license from the Ohio Bureau of Motor Vehicles (OBMV) which states the Defendant is prohibited from operating a motor vehicle not equipped with an IID.

¹ See Appendix for further explanation of unlimited driving privileges.

First Offense in 10 Years and Either a High Test or Refusal within 20 Years: The Court may grant a Defendant limited driving privileges after conviction of a first offense of OVI and either a high test or refusal within 20 years after expiration of the hard time, after completion of a Court approved application for limited driving rights demonstrating a need for the limited privileges requested and payment of the additional court costs. The Defendant shall be limited to driving in a vehicle that has restricted plates (registration) displayed in lieu of the regular vehicle registration. For unlimited driving privileges the Defendant shall drive a vehicle that is equipped with an approved IID that is monitored on a monthly basis. For unlimited driving privileges the Defendant shall obtain a restricted license from the OBMV which states the Defendant is prohibited from operating a vehicle not equipped with an IID.

Second Offense in 10 Years: The Court may grant a Defendant limited driving privileges after conviction of a second OVI offense after expiration of the hard time, after completion of a Court approved application for limited driving rights demonstrating a need for the limited privileges requested and payment of the additional court costs. The Defendant may be limited to driving in a vehicle that has restricted plates (registration) displayed in lieu of the regular vehicle registration. The Defendant shall be limited to driving a vehicle that is equipped with an approved IID that is monitored on a monthly basis if the OVI offense is alcohol-related. The IID may be required if the OVI offense was drug-related. The Defendant shall obtain a restricted license from the OBMV which states the Defendant is prohibited from operating a vehicle not equipped with an IID if the Defendant is limited to driving in a vehicle that is equipped with an IID.

Second Offense in 10 Years and Either a High-Test or Refusal within 20 Years: The Court may grant a Defendant limited driving privileges after conviction of a second OVI offense and either a high-test or a test refusal within 20 years after expiration of the hard time, after completion of a Court approved application for limited driving rights demonstrating a need for the limited privileges requested and payment of the additional court costs. The Defendant shall be limited to driving in a vehicle that has restricted plates (registration) displayed in lieu of the regular vehicle registration. The Defendant shall be limited to driving a vehicle that is equipped with an approved IID that is monitored on a monthly basis if the OVI offense is alcohol-related. The IID may be required if the OVI offense was drug-related. The Defendant shall obtain a restricted license from the OBMV which states the Defendant is

prohibited from operating a vehicle not equipped with an IID if the Defendant is limited to driving in a vehicle that is equipped with an IID.

Third Offense in 10 Years: The Court may grant a Defendant limited driving privileges after conviction of a third OVI offense after expiration of the hard time, after completion of a Court approved application for limited driving rights demonstrating a need for the limited privileges requested and payment of the additional court costs. The Defendant shall be limited to driving in a vehicle that has restricted plates (registration) displayed in lieu of the regular vehicle registration. The Defendant shall be limited to driving a vehicle that is equipped with an approved IID that is monitored on a monthly basis if the OVI offense is alcohol-related. The IID may be required if the OVI offense was drug-related. The Defendant shall obtain a restricted license from the OBMV which states the Defendant is prohibited from operating a vehicle not equipped with an IID if the Defendant is limited to driving in a vehicle that is equipped with an IID.

Third Offense in 10 Years and Either a High-Test or Refusal within 20 Years: The Court may grant a Defendant limited driving privileges after conviction of a third OVI offense and either a high-test or a test refusal within 20 years after expiration of the hard time, after completion of a Court approved application for limited driving rights demonstrating a need for the limited privileges requested and payment of the additional court costs. The Defendant shall be limited to driving in a vehicle that has restricted plates (registration) displayed in lieu of the regular vehicle registration. The Defendant shall be limited to driving a vehicle that is equipped with an approved IID that is monitored on a monthly basis if the OVI offense is alcohol-related. The IID may be required if the OVI offense was drug-related. The Defendant shall obtain a restricted license from the OBMV which states the Defendant is prohibited from operating a vehicle not equipped with an IID if the Defendant is limited to driving in a vehicle that is equipped with an IID.

Operating a Vehicle after Underage Alcohol Consumption: The Court may grant a Defendant limited driving privileges after conviction of Operating a Vehicle after Underage Alcohol Consumption after expiration of the hard time, after completion of a Court approved application for limited driving rights demonstrating a need for the limited privileges requested and payment of the additional court costs. The Defendant may be limited to driving in a vehicle that has restricted plates (registration) displayed in lieu of the regular vehicle

registration. The Defendant may be limited to driving in a vehicle that is equipped with an approved IID that is monitored on a monthly basis. The Defendant shall obtain a restricted license from the OBMV which states the Defendant is prohibited from operating a vehicle not equipped with an IID if the Defendant is limited to driving in a vehicle that is equipped with an IID.

Physical Control While under the Influence: The Court may grant a Defendant limited driving privileges after a conviction of Physical Control While under the Influence after completion of a Court approved application for limited driving rights demonstrating a need for the limited privileges requested and payment of the additional court costs. The Defendant may be limited to driving in a vehicle that has restricted plates (registration) displayed in lieu of the regular vehicle registration. The Defendant may be limited to driving in a vehicle that is equipped with an approved IID that is monitored on a monthly basis. The Defendant shall obtain a restricted license from the OBMV which states the Defendant is prohibited from operating a vehicle not equipped with an IID if the Defendant is limited to driving in a vehicle that is equipped with an IID.

III. For BMV/ALS:

First and Second Test Refusals in 10 Years: For Defendants who refused to take a breath, urine, or blood test upon the request of a law enforcement officer while under arrest on the OVI charge one or two times in the prior 10 years, the Court may grant limited privileges after expiration of the hard time, upon completion of a Court approved application for limited driving rights demonstrating a need for the limited privileges requested and payment of the additional court costs. The Defendant may be limited to driving in a vehicle that has restricted plates (registration) displayed in lieu of the regular vehicle registration and that is equipped with an approved IID that is monitored on a monthly basis. The Defendant shall obtain a restricted license from the OBMV which states the Defendant is prohibited from operating a vehicle not equipped with an IID if the Defendant is limited to driving in a vehicle that is equipped with an IID.

Three or More Test Refusals in 10 Years: For Defendants who refused to take a breath, urine, or blood test upon the request of a law enforcement officer while under arrest on the OVI charge three or more time in the prior 10 years, the Court may grant limited privileges after expiration of the hard time, upon completion of a Court approved application

for limited driving rights demonstrating a need for the limited privileges requested and payment of the additional court costs. The Defendant shall be limited to driving in a vehicle that has restricted plates (registration) displayed in lieu of the regular vehicle registration. The Defendant shall be limited to driving a vehicle that is equipped with an approved IID that is monitored on a monthly basis if the OVI offense is alcohol-related. The Defendant shall obtain a restricted license from the OBMV which states the Defendant is prohibited from operating a vehicle not equipped with an IID if the Defendant is limited to driving in a vehicle that is equipped with an IID.

IV. Application for Limited Driving Rights:

The application must contain the following information: (1) Name; (2) Social Security Number; (3) residence address (no P.O. boxes); (4) home and/or cell phone number; (5) place of employment, school or vocational center; (6) address of employment/educational institution/vocational training; (7) work schedule demonstrating a need for the limited privileges requested including days, work hours, and overtime, or class times; (8) treatment provider's address, dates and times of treatments; and (9) a detailed description of the route of travel from the residence described in (3) to the destinations in (5), (6) or (8). The Court upon request may provide an approved application form.

In accordance with O.R.C. Section 4510.021(E), the applicant must show proof of financial responsibility (insurance on the vehicle and an SR 22, if required of the applicant).

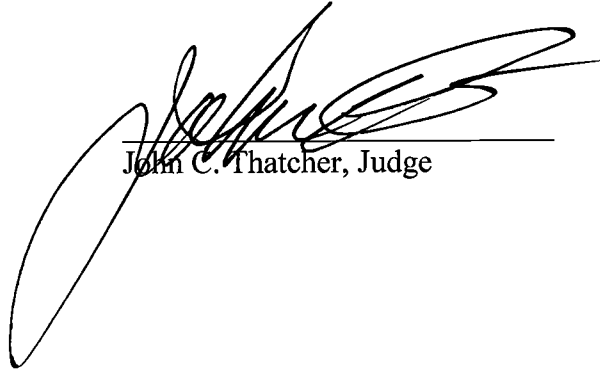
If the applicant is limited to driving a vehicle that is equipped with an IID, the applicant must show proof that the interlock device has been installed.

If the applicant is limited to driving a vehicle with restricted plates (registration), the applicant must include as a part of the application a copy of the restricted registration received from the OBMV and show proof that the restricted plates have been placed on the vehicle. This information will be included on the Court Order granting the driving rights so that any law enforcement officer can verify that a person with limited driving rights is operating an approved vehicle.

V. Procedure to Obtain Limited Driving Rights:

The person applying for limited driving privileges may begin the process during the so called "hard time" when the Court is without authority to granted limited privileges. The application will not be deemed filed until the applicant is eligible for driving privileges after

the expiration of the hard time. The Court may grant limited driving privileges in accordance with the Court policies and Ohio law. The Court will make a decision on the application and issue the order in accordance with the Court's decision within five business days after the completed application is received by the Court.



John C. Thatcher, Judge

cc. Mount Vernon Law Director
Knox County Public Defender
Knox County Bar Association
Adult Probation Department

APPENDIX

Unlimited Driving Privileges for First Time OVI Offender – ORC §4510.022: A

Defendant whose license is suspended because of an OVI conviction for the first time within 10 years qualifies for unlimited driving privileges. “Unlimited driving privileges” means there are no restrictions as to purpose, time, or place but the Court ...

- Has discretion to impose other reasonable conditions.
- MUST require operation with a certified ignition interlock device and “restricted license.”

Unlimited driving privileges with a certified ignition interlock device may only be granted if driving privileges are permitted by statute in the first instance. The “hard time” period during which the court may not grant driving privileges still applies to unlimited driving privileges.

Unlimited driving privileges are not available pretrial and may only be granted upon conviction by the Court imposing the suspension. The Court may reduce the period of the court’s suspension by half if unlimited driving privileges are granted.

The Court must suspend the jail term it imposed if unlimited privileges are granted but if the offender violates any condition of the order during the period of suspension, the court shall require the offender to serve the jail term. The Court may still impose the 72-hour driver intervention program (DIP) as part of community control sanctions (probation).

The Court must assess a \$2.50 fee to be deposited into the state highway safety fund which will be used to maintain the habitual OVI/OMWI registry. The Court may assess an additional \$2.50 to be deposited into the Court’s special project fund.

There are serious penalties for an “ignition interlock device violation,” which means that a certified ignition interlock device indicates that it has prevented an offender from starting a motor vehicle, because of either of the following [ORC §4510.46]:

- The device was tampered with or circumvented.
- The analysis of the deep-lung breath sample or other method employed by the ignition interlock device to measure the concentration by weight of alcohol in the offender's breath indicated the presence of alcohol in the offender's breath in a concentration sufficient to prevent the ignition interlock device from permitting the motor vehicle to be started.

If the Court grants unlimited driving privileges, the court must provide the offender with the following:

1. A certified order granting unlimited driving privileges.
2. A notice that he/she is subject to the following sanctions for an ignition interlock device violation.
 - a. For a first violation, court may order the offender to wear a remote monitor that provides continuous alcohol monitoring.
 - b. For a second violation, the court shall order the offender to wear a remote monitor that provides continuous alcohol monitoring for 40 days.
 - c. For a third and subsequent violation, the court shall order the offender to wear a remote monitor that provides continuous alcohol monitoring for 60 days.
 - d. For any ignition interlock device violation or operation of a vehicle without the required ignition interlock device, the court may increase the period of license suspension and the period for use of the certified ignition interlock device by a factor of two. However, the increase may not exceed the maximum suspension or period for use of the interlock device permitted for the offense, i.e., 3 years.
 - e. If the violation occurs within 60 days of the end of the suspension and the court does not increase the suspension, the court shall.
 - f. Extend the period of suspension and the period for use of the ignition interlock for 60 days from the date of the violation.
 - g. If a violation occurs after the 60-day extension is ordered, enter another order extending the suspension and the period for use of the ignition interlock by 60 days from the date of the violation.
 - h. The OBMV is prohibited from reinstating the offender's license unless the period of suspension is served, and no ignition interlock device violations have been committed within 60 days prior to the reinstatement application.

The offender may appeal any extension of the period of suspension or use of the ignition interlock as follows [ORC §4510.46]:

1. The ignition interlock monitor is required to notify the court and the OBMV of any alleged violation.
2. Upon receipt of the monitor's notice, the court must send a notice to the offender as follows.
 - a. The court has received evidence of an ignition interlock violation.
 - b. If applicable, that the offender must now wear a remote monitor that provides for continuous alcohol monitoring.
 - c. The court may increase the period of suspension by a factor of two and may increase the period for using the ignition interlock device by a factor of two and whether, in fact the court is increasing the suspension and the time for use of the device.
 - d. Whether the court is increasing the period of suspension by 60 days if the alleged violation is within 60 days of the termination of suspension.
3. The offender has 14 days of receiving the violation notice and if filed later than 14 days, the appeal is untimely.
4. The court may hold a hearing on the appeal, but the hearing is limited to "determining whether the offender in fact was prevented from starting a motor vehicle...because the offender committed an ignition interlock device violation."
5. If the court finds by a preponderance of evidence that a violation occurred, the appeal will be denied. If the court finds no violation, the order increasing the suspension will be terminated.
6. Nothing in this statute prevents the court from revoking driving privileges once granted.

The offender must obtain a restricted license from the OBMV if granted unlimited driving privileges with an ignition interlock device as follows:

1. The court must send a certified copy of the driving privileges order to the OBMV.
2. The offender shall present to the OBMV.
 - a. the court order granting unlimited driving privileges.
 - b. a certificate signed by the installer affirming a certified ignition interlock device is installed in his/her vehicle.

3. The OBMV will issue a license which states that the offender is prohibited from operating a vehicle without being equipped with an ignition interlock device. The OBMV may not issue the restricted license if the offender has other suspensions for which limited driving privileges have not been granted.

4. If the offender operates a vehicle without obtaining the restricted license, the offender is subject to the same penalties as driving under an OVI suspension under ORC §4510.14. This is a strict liability offense and ORC §2901.20 does not apply.