§2411. Criminal OUI

1. Offense.

[PL 2003, c. 452, Pt. Q, §77 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]

1-A. Offense. A person commits OUI if that person:

A. Operates a motor vehicle:

(1) While under the influence of intoxicants; or

(2) While having an alcohol level of 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath; [PL 2009, c. 447, §37 (AMD).]

B. Violates paragraph A and:

(1) Has one previous OUI offense within a 10-year period;

(2) Has 2 previous OUI offenses within a 10-year period; or

(3) Has 3 or more previous OUI offenses within a 10-year period; [PL 2003, c. 452, Pt. Q, §78 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

C. Violates paragraph A, failed to submit to a test at the request of a law enforcement officer and:

(1) Has no previous OUI offenses within a 10-year period;

(2) Has one previous OUI offense within a 10-year period;

(3) Has 2 previous OUI offenses within a 10-year period; or

(4) Has 3 previous OUI offenses within a 10-year period; or [PL 2003, c. 452, Pt. Q, §78 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

D. Violates paragraph A, B or C and:

(1) In fact causes serious bodily injury as defined in Title 17-A, section 2, subsection 23 to another person;

(1-A) In fact causes the death of another person; or

(2) Has either a prior conviction for a Class B or Class C crime under this section or former Title 29, section 1312-B or a prior criminal homicide conviction involving or resulting from the operation of a motor vehicle while under the influence of intoxicating liquor or drugs or with an alcohol level of 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath. For purposes of this subparagraph, the 10-year limitation specified in section 2402 and Title 17-A, section 9-A, subsection 3 does not apply to the prior criminal homicide conviction or to a prior conviction for a Class B or Class C crime under this section or former Title 29, section 1312-B. The convictions may have occurred at any time. [RR 2015, c. 2, §18 (COR).]

[RR 2015, c. 2, §18 (COR).]

2. Pleading and proof. The alternatives outlined in subsection 1-A, paragraph A may be pleaded in the alternative. The State is not required to elect between the alternatives prior to submission to the fact finder. In a prosecution under subsection 1-A, paragraph D, the State need not prove that the defendant's condition of being under the influence of intoxicants or having an alcohol level of 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath caused the serious bodily injury or death alleged. The State must prove only that the defendant's operation caused the serious bodily injury or death. The court shall apply Title 17-A, section 33 in assessing any causation under this section.

[PL 2009, c. 447, §39 (AMD).]

3. Investigation. After a person has been charged with OUI, the officer shall investigate whether the charged person has prior OUI offenses. As part of the investigation, the officer shall make necessary inquiries of the Secretary of State.
[PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

4. Arrest. A law enforcement officer may arrest, without a warrant, a person the officer has probable cause to believe has operated a motor vehicle while under the influence of intoxicants if the arrest occurs within a period following the offense reasonably likely to result in the obtaining of probative evidence of an alcohol level or the presence of a drug or drug metabolite.
[PL 2013, c. 459, §2 (AMD).]

5. Penalties. Except as otherwise provided in this section and section 2508, violation of this section is a Class D crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. The following minimum penalties apply and may not be suspended:

A. For a person having no previous OUI offenses within a 10-year period:

(1) A fine of not less than $500, except that if the person failed to submit to a test, a fine of not less than $600;

(2) A court-ordered suspension of a driver's license for a period of 150 days; and

(3) A period of incarceration as follows:

(a) Not less than 48 hours when the person:

(i) Was tested as having an alcohol level of 0.15 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath;

(ii) Was exceeding the speed limit by 30 miles per hour or more;

(iii) Eluded or attempted to elude an officer; or

(iv) Was operating with a passenger under 21 years of age; and

(b) Not less than 96 hours when the person failed to submit to a test at the request of a law enforcement officer; [PL 2013, c. 389, §1 (AMD); PL 2013, c. 389, §7 (AFF).]

B. For a person having one previous OUI offense within a 10-year period:

(1) A fine of not less than $700, except that if the person failed to submit to a test at the request of a law enforcement officer, a fine of not less than $900;

(2) A period of incarceration of not less than 7 days, except that if the person failed to submit to a test at the request of a law enforcement officer, a period of incarceration of not less than 12 days;

(3) A court-ordered suspension of a driver's license for a period of 3 years; and

(4) In accordance with section 2416, a court-ordered suspension of the person's right to register a motor vehicle; [PL 2007, c. 531, §2 (AMD); PL 2007, c. 531, §10 (AFF).]

C. For a person having 2 previous OUI offenses within a 10-year period, which is a Class C crime:

(1) A fine of not less than $1,100, except that if the person failed to submit to a test at the request of a law enforcement officer, a fine of not less than $1,400;

(2) A period of incarceration of not less than 30 days, except that if the person failed to submit to a test at the request of a law enforcement officer, a period of incarceration of not less than 40 days;

(3) A court-ordered suspension of a driver's license for a period of 6 years; and

(4) In accordance with section 2416, a court-ordered suspension of the person's right to register a motor vehicle; [PL 2007, c. 531, §2 (AMD); PL 2007, c. 531, §10 (AFF).]

D. For a person having 3 or more previous OUI offenses within a 10-year period, which is a Class C crime:

(1) A fine of not less than $2,100, except that if the person failed to submit to a test at the request of a law enforcement officer, a fine of not less than $2,500;

(2) A period of incarceration of not less than 6 months, except that if the person failed to submit to a test at the request of a law enforcement officer, a period of incarceration of not less than 6 months and 20 days;

(3) A court-ordered suspension of a driver's license for a period of 8 years; and

(4) In accordance with section 2416, a court-ordered suspension of the person's right to register a motor vehicle; [PL 2013, c. 187, §1 (AMD).]

D-1. A violation of subsection 1-A, paragraph D, subparagraph (1) is a Class C crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. The sentence must include a period of incarceration of not less than 6 months, a fine of not less than $2,100 and a court-ordered suspension of a driver's license for a period of 6 years. These penalties may not be suspended; [PL 2005, c. 606, Pt. A, §2 (AMD).]

D-2. A violation of subsection 1-A, paragraph D, subparagraph (1-A) or (2) is a Class B crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. The sentence must include a period of incarceration of not less than 6 months, a fine of not less than $2,100 and a court-ordered suspension of a driver's license for a period of 10 years. These penalties may not be suspended; [PL 2005, c. 606, Pt. A, §3 (NEW).]

E. If a law enforcement officer failed to provide the warnings required by section 2521, subsection 3, the increase in minimum penalties required because of a refusal to submit to a test is not mandatory; [PL 1997, c. 737, §9 (AMD).]

F. For a person sentenced under paragraph B, C or D, the court shall order the defendant to participate in the alcohol and other drug program of the Department of Health and Human Services. The court may waive the program pursuant to Title 5, section 20073-B, if the court finds that the defendant has completed an alcohol or other drug treatment program subsequent to the date of the offense; and [PL 2011, c. 657, Pt. AA, §78 (AMD).]

G. The court shall order an additional period of license suspension of 275 days for a person sentenced under paragraph A, B, C, D, D-1 or D-2 if the person was operating the motor vehicle at the time of the offense with a passenger under 21 years of age. [PL 2005, c. 606, Pt. A, §4 (AMD).]

[PL 2013, c. 187, §1 (AMD); PL 2013, c. 389, §1 (AMD); PL 2013, c. 389, §7 (AFF).]

5-A. Notice. The court shall give notice of a license suspension.

[PL 2025, c. 173, §20 (AMD).]

5-B. Additional period of suspension. The Secretary of State may impose an additional period of suspension under section 2451, subsection 3 or may extend a period of suspension until satisfaction of any conditions imposed pursuant to chapter 23, subchapter III, article 4.

[PL 1995, c. 368, Pt. AAA, §9 (NEW).]

6. Aggravated punishment category.

[PL 2003, c. 452, Pt. Q, §83 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]

7. Surcharge. A surcharge must be charged for a conviction under this section. The surcharge is $30, except that, when the person operated or attempted to operate a motor vehicle while under the

influence of drugs or a combination of liquor and drugs, the surcharge is $125. For the purposes of collection procedures, the surcharge is considered a fine. Notwithstanding section 2602, this surcharge accrues to the Highway Fund for the purpose of covering the costs associated with the administration and analysis of alcohol level tests.
[PL 2009, c. 447, §42 (AMD).]

8. Juvenile crime. References in this Title to this section include the juvenile crime in Title 15, section 3103, subsection 1, paragraph A for conduct that, if committed by an adult, would be considered criminal under this section, and the disposition, including a suspension, for that juvenile crime in Title 15, section 3314, subsection 3-C, except as otherwise provided or except where the context clearly requires otherwise.
[PL 2025, c. 431, §27 (AMD).]

SECTION HISTORY

PL 1993, c. 683, §A2 (NEW). PL 1993, c. 683, §B5 (AFF). PL 1995, c. 65, §A115 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 1995, c. 368, §§AAA7-10 (AMD). PL 1995, c. 645, §B18 (AMD). PL 1997, c. 737, §§8-11 (AMD). PL 1999, c. 703, §1 (AMD). PL 2001, c. 332, §1 (AMD). PL 2001, c. 511, §3 (AMD). PL 2003, c. 452, §§Q77-83 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2003, c. 633, §8 (AMD). PL 2003, c. 673, §§TT3,4 (AMD). PL 2003, c. 689, §B6 (REV). PL 2005, c. 397, §§B7,8 (AFF). PL 2005, c. 438, §1 (AMD). PL 2005, c. 606, §§A1-4 (AMD). PL 2007, c. 531, §2 (AMD). PL 2007, c. 531, §10 (AFF). PL 2009, c. 447, §§37-42 (AMD). PL 2011, c. 81, §1 (AMD). PL 2011, c. 159, §1 (AMD). PL 2011, c. 657, Pt. AA, §78 (AMD). PL 2013, c. 187, §1 (AMD). PL 2013, c. 389, §1 (AMD). PL 2013, c. 389, §7 (AFF). PL 2013, c. 459, §2 (AMD). PL 2013, c. 604, §2 (AMD). RR 2015, c. 2, §18 (COR). PL 2017, c. 99, §1 (AMD). PL 2025, c. 173, §20 (AMD). PL 2025, c. 431, §27 (AMD).

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