§2453. Suspension on administrative determination; excessive alcohol level

1. Purpose. The purpose of this section is:

A. To provide maximum safety for all persons who travel on or otherwise use the public ways; and [PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

B. To remove quickly from public ways those persons who have shown themselves to be a safety hazard by operating a motor vehicle with an excessive alcohol level. [PL 2009, c. 447, §49 (AMD).]

[PL 2009, c. 447, §49 (AMD).]

2. Definition. For the purposes of this section, "operating a motor vehicle with an excessive alcohol level" means operating a motor vehicle with 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, §49 (AMD).]

3. Suspension. The Secretary of State shall immediately suspend a license of a person determined to have operated a motor vehicle with an excessive alcohol level.

[PL 2009, c. 447, §49 (AMD).]

4. Drug and alcohol program. The Secretary of State may not suspend a license solely because a person has not satisfactorily completed an alcohol and drug program, as defined in subchapter 1. This limitation does not affect statutory restoration authority.

[PL 2009, c. 447, §49 (AMD).]

5. Stay. If, within 10 days from the effective date of the suspension, the Secretary of State receives a request in writing for a hearing in accordance with section 2483, the suspension is stayed until a hearing is held and a decision is issued.

[PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

6. Period of suspension. The following periods of suspension apply.

A. The same suspension period applies as if the person were convicted of OUI. [PL 2003, c. 434, §29 (AMD); PL 2003, c. 434, §37 (AFF).]

B. [PL 1997, c. 737, §13 (RP).]

C. If a person's license is also suspended for an OUI conviction arising out of the same occurrence, the period of time the license has been suspended under this section prior to the conviction must be deducted from the period of time of a court-imposed suspension. [PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

D. The period of suspension is a minimum and the Secretary of State may suspend the license for an additional period under section 2451, subsection 3. [PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

[PL 2003, c. 434, §29 (AMD); PL 2003, c. 434, §37 (AFF).]

7. Restoration of license. The Secretary of State may issue a license or permit as follows.

A. Restoration of any license or permit to operate, right to operate a motor vehicle and right to apply for or obtain a license suspended under this section must be in accordance with sections 2502 to 2506. [PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

[PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

8. Hearing. The scope of the hearing must include whether:

A. The person operated a motor vehicle with an excessive alcohol level; and [PL 2009, c. 447, §49 (AMD).]

B. There was probable cause to believe that the person was operating a motor vehicle with an excessive alcohol level. [PL 2009, c. 447, §49 (AMD).]

[PL 2009, c. 447, §49 (AMD).]

SECTION HISTORY

PL 1993, c. 683, §A2 (NEW). PL 1993, c. 683, §B5 (AFF). PL 1997, c. 737, §13 (AMD). PL 2003, c. 434, §29 (AMD). PL 2003, c. 434, §37 (AFF). PL 2009, c. 447, §49 (AMD).

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