

CHAPTER 333  
Intoxication; Reckless Operation; Speed

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CROSS REFERENCES

See sectional histories for similar State law  
 Drug Of Abuse defined - See Ohio R.C. 3719.011(A)  
 Alcohol defined - see Ohio R.C. 4301.01(B)(1)  
 Alteration of prima-facie speed limits - see Ohio  
 R.C. 4511.21, 4511.22(B), 4511.23  
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 371.09

333.01 DRIVING OR PHYSICAL CONTROL WHILE UNDER THE  
 INFLUENCE; OPERATING ANY VEHICLE AFTER UNDER-AGE  
 ALCOHOL CONSUMPTION; EVIDENCE.

- (A) No person shall operate any vehicle within the City of Rocky River 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 eight-hundredths of one percent 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 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 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) No person under twenty-one years of age shall operate any vehicle in this City if any of the following apply:

- (1) The person has a concentration of at least two-hundredths of one percent but less than eight-hundredths of one percent 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 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 eleven-hundredths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

(C) In any proceeding arising out of one incident, a person may be charged with a violation of (A)(1) and a violation of section (B)(1), (2) or (3) of this section, but the person may not be convicted of more than one violation of these sections.

(D)(1) In any criminal prosecution or juvenile court proceeding for a violation of (A) or (B) 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 section 4511.191 of the Revised Code, 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. The 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 director of health by an individual possessing a valid permit issued by the director of health pursuant to section 3701.143 of the Revised Code.

(2) In a criminal prosecution or juvenile court proceeding for a violation of section (A) above, if there was, at the time the bodily substance was withdrawn, a concentration of less than eight-hundredths of one per cent by weight of alcohol in the defendant's blood, less than eight-hundredths of one gram by weight of alcohol per two hundred ten liters of the defendant's breath, or less than eleven-hundredths of one gram by weight of alcohol per one hundred milliliters of the defendant's urine, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This section does not limit or affect a criminal prosecution or juvenile court proceeding for a violation of section (B).

(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 (D)(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 (A) or (B) 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:

(i) The officer may testify concerning the results of the field sobriety test so administered.

(ii) 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.

(iii) If testimony is presented or evidence is introduced under (D)(4)(b)(i) or (ii) 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) (D)(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 section, from considering evidence or testimony that is not otherwise disallowed by (D)(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 the person.

(E) No person shall be in physical control of a vehicle, streetcar, or trackless trolley while under the influence of alcohol, a drug of abuse, or a combination of them or while the person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in division (A)(2), (3), (4) or (5) of section 4511.19 of the Revised Code within the City of Rocky River.

(1) In any criminal prosecution or juvenile court proceeding for a violation of this section or a substantially equivalent municipal ordinance, if a law enforcement officer has administered a field sobriety test to the person in physical control 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:

(a) The officer may testify concerning the results of the field sobriety test so administered.

(b) The prosecution may introduce the results of the field sobriety test so administered.

(c) If testimony is presented or evidence is introduced under division (C)(1)(a) or (b) 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.

(2) Division (C)(1) 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 division, from considering evidence or testimony that it is not otherwise disallowed by division (C)(1) of this section. (Ord. No. 229-03. Passed 12/22/03.)

333.02 RECKLESS OPERATION ON STREETS, PUBLIC OR PRIVATE PROPERTY.

(a) No person shall operate a vehicle, trackless trolley, or streetcar on any street or highway in willful or wanton disregard of the safety of persons or property.

(b) No person shall operate a vehicle, trackless trolley, or streetcar on any public or private property other than streets, or highways in willful or wanton disregard of the safety of persons or property.

This Section does not apply to the competitive operation of vehicles on public or private property when the owner of such property knowingly permits such operation thereon.

(Ord. 27-83. Passed 5-9-83.)

333.03 MAXIMUM SPEED LIMITS; ASSURED CLEAR DISTANCE AHEAD.

(a) No person shall operate a motor vehicle at a speed greater or less than is reasonable or proper, having due regard to the traffic, surface and width of the street or highway and any other conditions, and no person shall drive any motor vehicle in and upon any street or highway at a greater speed than will permit him to bring it to a stop within the assured clear distance ahead.

(b) It is prima-facie lawful, in the absence of a lower limit declared pursuant to Ohio R.C. 4511.21 by the Ohio Director of Transportation or Council, for the operator of a motor vehicle to operate the same at a speed not exceeding the following:

- (1) A. Twenty (20) miles per hour in school zones during school recess and while children are going to or leaving school during the opening or closing hours, and when appropriate signs giving notice of the existence of the school are erected; except, that on controlled-access highways and expressways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by Subsection (b)(4) hereof and on freeways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by Subsection (b)(7) hereof.

B. As used in this Section, "school zone" means that portion of a State route designed a school zone by the Ohio Director of Transportation under Subsection (b)(1)c. Hereof, and that portion of a highway passing a school fronting upon the highway, or passing a school which has its principal school pupil ingress-egress via the highway, and bounded by whichever of the following distances the Director approves as most appropriate:

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1. The distance encompassed by projecting the school building lines normal to the fronting highway and extending a distance
  2. The distance encompassed by projecting the school property lines intersecting the fronting highway and extending a distance of three hundred (300) feet on each approach direction;
  3. The distance encompassed by the special marking of the pavement for a principal school pupil crosswalk plus a distance of three hundred (300) feet on each approach direction of the highway;
  4. A distance of six hundred (600) feet using any combination or part thereof of the reference points described in Subsections (b)(1)B.1., 2. and 3. hereof.
- C. As used in this Subsection, "crosswalk" has the meaning given that term in Section 301.09. The Director may, upon request by Resolution of Council, and upon submission by the Municipality of such engineering, traffic and other information as the Director considers necessary, designate a school zone on any portion of a State route lying with the Municipality that includes a crosswalk customarily used by children going to or leaving a school during recess and opening and closing hours, whenever the distance, as measured in a straight line, from the school property line nearest the crosswalk to the nearest point of the crosswalk is no more than Thirteen Hundred Twenty (1,320) feet. Such a school zone shall include the distance encompassed by the crosswalk and extending Three Hundred (300) feet on each approach direction of the State route.
- (2) Twenty-five (25) miles per hour in all other portions of the Municipality, except on State routes outside business districts, through highways outside business districts and alleys: (See Appendix "B" at the end of this Chapter for a list of applicable streets.)  
(Ord. 108-80. Passed 12-8-80.)
  - (3) Thirty-five (35) miles per hour on all State routes or through highways within the Municipality outside business districts, except as provided in Subsection (b)(4) and (5) hereof.
  - (4) Fifty (50) miles per hour on State routes within the Municipality outside urban districts unless a lower prima-facie speed is established as further provided in this Section.

(5) Fifteen (15) miles per hour on all alleys within the Municipality.

(6) Fifty-five (55) miles per hour at all times on freeways with paved shoulders inside the Municipality.

(c) It is prima-facie unlawful for any person to exceed any of the speed limitations in Subsections (b)(1)A. to (b)(6) hereof, or any declared pursuant to this Section by the Director or local authorities and it is unlawful for any person to exceed the speed limitation in Subsection (d) hereof. No person shall be convicted of more than one (1) violation of this Section for the same conduct, although violations of more than one (1) provision of this Section may be charged in the alternative in a single affidavit.

(d) No person shall operate a motor vehicle upon the streets or highways at a speed exceeding fifty-five (55) miles per hour.

(e) In every charge of violation of this Section the affidavit and warrant shall specify the time, place and speed at which the defendant is alleged to have driven and in charges made in reliance upon Subsection (c) hereof also the speed which Subsections (b)(1)A to (b)(6) hereof, or a limit declared pursuant to this Section declares is prima-facie lawful at the time and place of such alleged violation except that in affidavits where a person is alleged to have driven at a greater speed than will permit him to bring the vehicle to a stop within the assured clear distance ahead the affidavit and warrant need not specify the speed at which the defendant is alleged to have driven.

(f) When a speed in excess of both a prima-facie limitation and the limitation in Subsection (d) hereof is alleged, the defendant shall be charged in a single affidavit, alleging a single act, with a violation indicated of both Subsections (b)(1)A. to (b)(6) hereof, or of a limit declared pursuant to this Section by the Director or local authorities, and of Subsection (d) hereof. If the court finds a violation of Subsections (b)(1)A. to (b)(6) hereof, or a limit declared pursuant to this Section has occurred, it shall enter a judgment of conviction under such Subsection and dismiss the charge under Subsection (d) hereof. If it finds no violation of Subsections (b)(1)A. to (b)(6) hereof or a limit declared pursuant to this Section, it shall then consider whether the evidence supports a conviction under Subsection (d) hereof.

(g) Points shall be assessed for violation of Subsection (d) hereof only when the court finds the violation involved a speed in excess of sixty (60) miles per hour on highways as provided in Subsection (b)(7) hereof.

(h) Convictions for violation of Subsection (d) hereof, or any ordinance enacted to reduce speeds in compliance with Subsection (d) hereof, shall not be forwarded to the Ohio Bureau of Motor Vehicles as provided under Ohio R.C. 4507.40 unless points are assessed as provided in this Subsection.

(i) Whenever the Ohio Director of Transportation determines, upon the basis of an engineering and traffic investigation, that any speed limit set forth in Subsections (b)(1)A. to (d) hereof is greater than is reasonable or safe under the conditions found to exist at any intersection or other place upon any part of a State route, the Director shall determine and declare a reasonable and safe prima-facie speed limit, which shall be effective when appropriate signs giving notice are erected at the intersection or other part of the State route.

(j) Whenever Council determines upon the basis of an engineering and traffic investigation that the speed permitted by Subsections (b)(1)A. to (d) hereof, on any part of a highway under their jurisdiction, is greater than is reasonable and safe under the conditions found to exist at such location, Council may by resolution request the Director to determine and declare a reasonable and safe prima-facie speed limit. Upon receipt of such request the Director may determine and declare a reasonable and safe prima-facie speed limit at such location, and if the Director does so, then such declared speed limit shall become effective only when appropriate signs giving notice thereof are erected at such location by the Municipality. The Director may withdraw his declaration of any prima-facie speed limit whenever in his opinion any altered prima-facie speed becomes unreasonable, and upon such withdrawal, the declared prima-facie speed shall become ineffective and the signs relating thereto shall be immediately removed by the Municipality.

(k) Council may authorize by ordinance higher prima-facie speeds than those stated in this Section upon through highways, or upon highways or portions thereof where there are no intersections, or between widely spaced intersections, provided signs are erected giving notice of the authorized speed, but Council shall not modify or alter the basic rule set forth in Subsection (a) hereof or in any event authorized by ordinance a speed in excess of fifty (50) miles per hour. Alteration of prima-facie limits on State routes by Council shall not be effective until the alteration has been approved by the Director. The Director may withdraw his approval of any altered prima-facie speed limits whenever in his opinion any altered prima-facie speed becomes unreasonable, and upon such withdrawal, the altered prima-facie speed shall become ineffective and the signs relating thereto shall be immediately removed by the Municipality. (ORC 4511.21.)

(l) Whenever, in accordance with Ohio R.C. 4511.21 or this Section, the speed limitations as established herein have been altered, either higher or lower, and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. It is prima-facie unlawful for any person to exceed the speed limits posted upon such signs.

**333.04 SLOW SPEED; POSTED MINIMUM SPEEDS.**

(a) No person shall operate a vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or to comply with law.

(b) Whenever, in accordance with Ohio R.C. 4511.22(B), the minimum speed limit of a controlled-access highway, expressway or freeway has been declared and the appropriate signs given notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. No person shall operate a motor vehicle below the speed limits posted upon such signs except when necessary for safe operation or in compliance with law. (ORC 4511.22.)

**333.05 SPEED LIMITATIONS OVER BRIDGES.**

(a) No person shall operate a vehicle over any bridge or other elevated structure constituting a part of a street at a speed which is greater than the maximum speed that can be maintained with safety to such bridge or structure, when such structure is posted with authorized signs stating such maximum speed. Such signs shall be erected and maintained at a distance of at least one hundred (100) feet before each end of such structure.

(b) Upon the trial of any person charged with a violation of this Section, proof of the determination of the maximum speed and the existence of such signs shall constitute prima-facie evidence of the maximum speed which can be maintained with safety to such bridge or structure. (ORC 4511.23.)

**333.06 SPEED EXCEPTIONS FOR EMERGENCY OR SAFETY VEHICLES.**

The prima-facie speed limitations set forth in Section 333.03 do not apply to emergency vehicles or public safety vehicles when they are responding to emergency calls and are equipped with and displaying at least one (1) flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of the vehicle and when the driver thereof sound audible signals by bell, siren or exhaust whistle. This Section does not relieve the driver of an emergency vehicle or public safety vehicle from the duty to drive with due regard for the safety of all persons using the street or highway. (ORC 4511.24.)

**333.07 DRAG RACING PROHIBITED.**

(a) "Drag Racing" is defined as the operation of two (2) or more vehicles from a point side by side at accelerating speeds in a competitive attempt to out-distance each other or the operation of one (1) or more vehicles over a common selected course, from the same point to the same point, wherein timing is made of the participating vehicles involving competitive accelerations or speeds.

Persons rendering assistance in any manner to such competitive use of vehicles shall be equally charged as the participants. The operation of two (2) or more vehicles side by side either at speeds established by Section 333.03 or rapidly accelerating from a common starting point to a speed in excess of such prima-facie lawful speeds shall be prima-facie evidence of drag racing.

(b) No person shall participate in a drag race as defined in Subsection (a) of this Section upon any public road, street or highway in this Municipality. (ORC 4511.251.)

**333.08 POLICE ON PATROL ARRESTING SPEEDERS (POPAS)**

(a) The Director of Public Safety-Service is authorized to direct the Chief of Police to create a unit of "Police On Patrol Arresting Speeders" (Popas), who would enforce Section 333.03 specifically, and any other City or State law generally.

(b) That the fines collected pursuant to citations, by the POPAS unit, shall be utilized to pay the expense of having and operating such a unit. Fines received by the Clerk of Courts from the POPAS Unit shall be deposited in the Special Revenue Fund titled POPAS Fund.  
Ord. No. 100-99. Passed 9-13-99.)

**333.99 PENALTY.**

(EDITOR'S NOTE: See Section 303.99 for misdemeanor classifications and penalties.)

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