



## Ohio Revised Code Section 4511.099 Hearing.

Effective: March 23, 2015

Legislation: Senate Bill 342 - 130th General Assembly

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(A) When a person or entity named in a ticket for a civil violation under division (A) of section 4511.097 of the Revised Code elects to contest the ticket and completes the requirements prescribed in division (A)(5) of section 4511.098 of the Revised Code in a timely manner, all of the following apply:

(1) A hearing officer appointed by the local authority shall hear the case. The hearing officer shall conduct a hearing not sooner than twenty-one but not later than forty-five days after the filing of a written request for the hearing. The hearing officer may extend the time period by which a hearing must be conducted upon a request for additional time by the person or entity who requested the hearing.

(2) The hearing officer shall ensure that the hearing is open to the public. The hearing officer shall post a docket in a conspicuous place near the entrance to the hearing room. The hearing officer shall identify on the docket, by respondent, the hearings scheduled for that day and the time of each hearing. The hearing officer may schedule multiple hearings for the same time to allow for occurrences such as nonappearances or admissions of liability.

(3) The person who requested the administrative hearing or a representative of the entity that requested the hearing shall appear for the hearing and may present evidence at the hearing.

(4) The hearing officer shall determine whether a preponderance of the evidence establishes that the violation alleged in the ticket did in fact occur and that the person or entity requesting the review is the person who was operating the vehicle at the time of the violation.

(B)(1) If the hearing officer finds by a preponderance of the evidence that the alleged traffic law violation did in fact occur and that the person or entity named in the ticket is the person who was operating the vehicle at the time of the violation, the hearing officer shall issue a written decision imposing liability for the violation upon the individual or entity and submit it to the local authority or



its designee and the person or entity named in the ticket.

(2) If the hearing officer finds by a preponderance of the evidence that the alleged traffic law violation did not occur or did in fact occur but the person or entity named in the ticket is not the person who was operating the vehicle at the time of the violation, the hearing officer shall issue a written decision finding that the individual or entity is not liable for the violation and submit it to the local authority or its designee and the person or entity named in the ticket.

(3) If the person who requested the administrative hearing or a representative of the entity that requested the hearing fails to appear at the hearing, the hearing officer shall determine that the person or entity is liable for the violation. In such a case, the hearing officer shall issue a written decision imposing liability for the violation upon the individual or entity and submit it to the local authority or its designee and the person or entity named in the ticket.

(4) The hearing officer shall render a decision on the day a hearing takes place.

(C)(1) In determining whether the person or entity named in the ticket is liable, the hearing officer may consider any of the following as an affirmative defense to a traffic law violation:

(a) That the vehicle passed through the intersection in order to yield the right-of-way to either of the following:

(i) A public safety vehicle or coroner's vehicle in accordance with section 4511.45 of the Revised Code or a substantially equivalent municipal ordinance;

(ii) A funeral procession in accordance with section 4511.451 of the Revised Code or a substantially equivalent municipal ordinance.

(b) That the motor vehicle or license plates of the motor vehicle were stolen prior to the occurrence of the violation and were not under the control or possession of the registered owner at the time of the violation. In order to demonstrate that the motor vehicle or license plates were stolen prior to the occurrence of the violation and were not under the control or possession of the registered owner at the time of the violation, the registered owner shall submit proof that a report about the stolen motor



vehicle or license plates was filed with the appropriate law enforcement agency prior to the traffic law violation or within forty-eight hours after the traffic law violation occurred.

(c) At the time and place of the alleged traffic law violation, the traffic control signal was not operating properly or the traffic law photo-monitoring device was not in proper position and the recorded image is not of sufficient legibility to enable an accurate determination of the information necessary to impose liability.

(d) That the registered owner or person or entity named in the ticket was not the person operating the motor vehicle at the time of the violation. In order to meet the evidentiary burden imposed under division (C)(1)(d) of this section, the registered owner or person or entity named in the ticket shall provide to the hearing officer the identity of the designated party, that person's name and current address, and any other evidence that the hearing officer determines to be pertinent.

(2) A hearing officer also may consider the totality of the circumstances when determining whether to impose liability upon the person or entity named in the ticket.

(D)(1) If the hearing officer finds that the person or entity named in the ticket was not the person who was operating the vehicle at the time of the violation or receives evidence identifying the designated party, the hearing officer shall provide to the local authority or its designee, within five days of the hearing, a copy of any evidence substantiating the identity of the designated party.

(2) Upon receipt of evidence of the identity of the designated party, the local authority or its designee may issue a ticket to the designated party.

A local authority shall ensure that a ticket issued under division (D)(2) of this section conforms with division (B) of section 4511.097 of the Revised Code. The local authority shall send the ticket by ordinary mail not later than twenty-one days after receipt of the evidence from the hearing officer or the registered owner of the identity of the designated party.

(E) If a designated party who is issued a ticket under division (D)(2) of this section or division (B) of section 4511.098 of the Revised Code contests the ticket by filing a written request for an administrative hearing to review the ticket not later than thirty days after receipt of the ticket, the



local authority shall require the registered owner of the motor vehicle also to attend the hearing. If at the hearing involving the designated party the hearing officer cannot determine the identity of the operator of the vehicle at the time of the violation, the registered owner is liable for the violation. The hearing officer then shall issue a written decision imposing liability for the violation on the registered owner and submit it to the local authority or its designee and to the registered owner. If the designated party also is a registered owner of the vehicle, liability for the violation shall follow the order of registered owners as listed on the title to the vehicle.

(F) A person who is named in a ticket for a civil violation may assert a testimonial privilege in accordance with division (D) of section 2317.02 of the Revised Code.

(G) A person or entity may appeal a written decision rendered by a hearing officer under this section to the municipal court or county court with jurisdiction over the location where the violation occurred.

(H) No decision rendered under this section, and no admission of liability under this section or section 4511.098 of the Revised Code, is admissible as evidence in any other judicial proceeding in this state.