

540 CMR: REGISTRY OF MOTOR VEHICLES

540 CMR 20.00 SUSPENSION OF A PERSON'S LICENSE AND RIGHT TO OPERATE A
MOTOR VEHICLE AS A RESULT OF THE CONVICTION OF A VIOLATION OF A
CONTROLLED SUBSTANCE ACT

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20.01: Purpose

The purpose of 540 CMR 20.00 is to establish uniform rules and regulations governing the duration of the suspension of a person's license or right to operate a motor vehicle within the Commonwealth, pursuant to:

- (a) M.G.L. c. 90, § 22(f) as a result of a conviction of a violation of the Controlled Substance Law of the Commonwealth (M.G.L. c. 94C); or,
- (b) M.G.L. c. 90, § 22(c) as a result of a conviction of a violation of the Controlled Substance Law of another State, the United States of America, or any other country.

20.02: Scope and Applicability

540 CMR 20.00 is promulgated by the Registrar, under the authority of M.G.L. c. 90, § 31 and M.G.L. c. 16, § 9, and applies to any person convicted of a violation of M.G.L. c. 94C or of a Controlled Substance Law of another State, the United States of America or any other country. The authority of the Registrar to suspend a person's license or right to operate a motor vehicle within the Commonwealth as a result of a drug related conviction is found in M.G.L. c. 90, §§ 22(c) and (f).

20.03: Suspensions Required by M.G.L. c. 90, § 22(f) Based Upon A Conviction of M.G.L. c. 94C

(1) The duration of any suspension of the license or right to operate a motor vehicle pursuant to M.G.L. c. 90, § 22(f) shall be determined according to the following schedule:

(a) One Year Suspensions:

- M.G.L. c. 94C, § 5 Dispensing Controlled Substances
- M.G.L. c. 94C, § 8 Research Projects
- M.G.L. c. 94C, § 21 Prescriptions Violations
- M.G.L. c. 94C, § 22 Prescriptions Violations
- M.G.L. c. 94C, § 24(a) Practitioner's Violations
- M.G.L. c. 94C, § 25 Practitioner's Violations
- M.G.L. c. 94C, § 26 Practitioner's Violations
- M.G.L. c. 94C, § 27 Possession of an Instrument for Administering Controlled Substances by Injection
- M.G.L. c. 94C, § 35 Being Present Where Heroin is Kept
- M.G.L. c. 94C, § 32I(a) Sale of Drug Paraphernalia
- M.G.L. c. 94C, § 32G Sale of Counterfeit Substances
- M.G.L. c. 94C, § 34 Illegal Possession of a Class A Substance
- M.G.L. c. 94C, § 34 Illegal Possession of a Class B Substance
- M.G.L. c. 94C, § 34 Illegal Possession of a Class C Substance
- M.G.L. c. 94C, § 34 Illegal Possession of a Class D Substance
- M.G.L. c. 94C, § 34 Illegal Possession of a Class E Substance
- M.G.L. c. 94C, § 40 Conspiracy to Violate the Controlled Substance Laws

(b) Two Year Suspensions:

- M.G.L. c. 94C, § 32C(a) Possession of a Class D Substance with intent to Distribute/Manufacture/Cultivate
- M.G.L. c. 94C, § 32D(a) Possession of a Class E Substance with intent to Distribute/Manufacture/Cultivate
- M.G.L. c. 94C, § 32I(a) Sale of Drug Paraphernalia to Minors

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- M.G.L. c. 94C, § 33(a) Using False Registration Number
- M.G.L. c. 94C, § 33(b) Uttering a False Prescription
- M.G.L. c. 94C, § 37 Larceny of a Controlled Substance

(c) Three Year Suspensions:

- M.G.L. c. 94C, § 32(a) Possession of a Class A Substance with Intent to Distribute or manufacture
- M.G.L. c. 94C, § 32A(a) Possession of a Class B Substance with Intent to Distribute or Manufacture
- M.G.L. c. 94C, § 32A(c) Possession of Cocaine with Intent to Distribute or Manufacture
- M.G.L. c. 94C, § 32B(a) Possession of a Class C Substance with Intent to Distribute or Manufacture
- M.G.L. c. 94C, § 32C(b) Second or Subsequent Conviction of Possession of a Class D Substance
- M.G.L. c. 94C, § 34D(b) Second or Subsequent Conviction of Possession of a Class E Substance

(d) Four Year Suspensions:

- M.G.L. c. 94C, § 32(b) Second or Subsequent Conviction of Possession of a Class A Substance with Intent to Distribute/Manufacture/Cultivate
- M.G.L. c. 94C, § 32A(b) Second or Subsequent Conviction of Possession of a Class B Substance with Intent to Distribute/Manufacture/Cultivate
- M.G.L. c. 94C, § 32B(b) Second or Subsequent Conviction of Possession of a Class C Substance with Intent to Distribute/Manufacture/Cultivate
- M.G.L. c. 94C, § 32A(d) Second or Subsequent Conviction of Possession of Cocaine

(e) Five Year Suspensions:

- M.G.L. c. 94C, § 32E Convictions of Trafficking, Manufacturing, Distributing or Dispensing of a Class A Substance
- M.G.L. c.94C, § 32E Convictions of Trafficking, Manufacturing, Distributing or Dispensing of a Class B Substance
- M.G.L. c. 94C, § 32E Convictions of Trafficking, Manufacturing, Distributing or Dispensing of a Class D Substance
- M.G.L. c. 94C, § 32F Unlawful Manufacture, Distribution, Dispensing and Sales to Minors of a Class A, B, or C Substance
- M.G.L. c. 94C, § 32J Controlled Substance Violation in, on, or near School Property
- M.G.L. c. 94C, § 32K Inducing or Abetting a Minor to Distribute or Sell Controlled Substances

(2) The duration of any suspension of the license or right to operate a motor vehicle pursuant to M.G.L. c. 90, § 22 (f) for any violation of M.G.L. c. 94C not specifically listed in the schedule appearing in 540 CMR 20.03(1) shall be one year.

(3) Early Reinstatement Procedures.

- (a) After an individual has completed 50% of the assigned suspension period, the Registry, upon written application, may entertain a request for early reinstatement.
- (b) An individual's request for a hearing for early reinstatement will be evaluated by a Hearings Officer to determine if all of the following conditions exist:
 1. The individual has served at least 50% of the assigned suspension period.
 2. If the individual was a license holder, he or she physically surrendered the suspended license to the Registry.
 3. Reliable evidence is submitted to establish that the individual has dealt with or brought under control the causes of the present and past violations, and has complied with any conditions set by the court.
 4. The individual demonstrates that the continued suspension would cause a severe hardship.
 5. There is no evidence in the Registrar's record or elsewhere of motor vehicle operation during the suspension period.
 6. There is no evidence in the Registrar's record, the probation records or elsewhere of additional Controlled Substance Law convictions or incidents.

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(c) After considering the above, the Hearings office shall decide whether or not to grant the request for early reinstatement based on the preponderance of the evidence presented.

(d) These are minimum guidelines and do not prevent a Hearings Officer from requesting additional documents, reports, court abstracts, recommendations and transcripts before rendering a decision. The decision to reinstate early in appropriate cases lies within the reasonable discretion of the Registrar.

20.04: Suspensions Based on a Conviction of a Violation of a Controlled Substance Law of Another State, The United States of America, or Any Other Country

(1) Under M.G.L. c. 90, § 22(c), if the Registrar receives official notice, in any form which the Registrar deems appropriate including electronic transmission, that a resident of the Commonwealth or any person licensed to operate a motor vehicle under the provision of M.G.L. c. 90, has been convicted by another state, the United States of America or any other country of a violation of any Controlled Substance Law of the other state or country, including the United States of America, the Registrar will give the same effect to the conviction for the purposes of suspension, limitation or reinstatement of the license or right to operate a motor vehicle as if the violation had occurred in the Commonwealth in violation of M.G.L. c. 94C.

(2) The specific duration of any suspension of the license or right to operate a motor vehicle pursuant to 540 CMR 20.03 shall be determined by the schedule in 540 CMR 20.03. The early reinstatement procedure in 540 CMR 20.03(3) shall apply to all suspensions under 540 CMR 20.04.

(3) The Registrar may, from time to time, develop specific suspension duration schedules for any state or country, including the United States of America, to facilitate the computation of the suspension period.

(4) In no event shall the suspension period be less than six months or more than five years.

REGULATORY AUTHORITY

540 CMR 20.00: M.G.L. c. 90, § 31 and M.G.L. c. 16, § 9.