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DRIVING UNDER THE INFLUENCE (DUI) STATE LAW

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According to the Colorado State Patrol, 27,969 driving under the influence (DUI) convictions were handed down in 2007, and over the past ten years there have been an average of 25,016 convictions annually. Under state law, it is a misdemeanor offense to drive:

- while under the influence of alcohol or drugs (blood alcohol content of 0.08 or greater);
- while ability impaired (DWAI) by alcohol or drugs (blood alcohol content of 0.05 to 0.08); or
- as an habitual user of a controlled substance.

This issue brief provides a summary of penalties for first-time and repeat DUI offenders.

Penalties

Surcharges and fines. Persons with DUI convictions are subject to the following surcharges and fines:

- \$20 surcharge deposited to the Traumatic Brain Injury Trust Fund,;
- \$50 to \$500 surcharge to support persistent drunk driver programs; and
- relevant surcharges, dependent upon the violation, deposited to the Crime Victim Compensation Fund.

Criminal penalties. Driving with a blood alcohol content (BAC) of 0.08 or greater while behind the wheel or within two hours after driving, or under the

influence of one or more drugs constitutes a DUI violation, a misdemeanor offense. Sentences for DUI offenders vary according to past convictions, BAC, and age. Table 1 provides the ranges of sentences set in state law for noncommercial drivers above 21 years of age.

Table 1
Colorado Penalties for DUI Convictions

	First Conviction with 0.08 or Greater BAC	First Conviction with 0.20 or Greater BAC	Subsequent Conviction(s)
Jail Sentence	5 – 365 Days	90 – 365 Days	90 – 365 Days
Fine	\$600 – \$1,000	\$1,000 – \$1,500	\$1,000 – \$1,500
Public Service	48 – 96 Hours	60 – 120 Hours	60 – 120 Hours

Section 42-4-1301 (7), C.R.S.

State law permits the courts to suspend a DUI sentence if the offender:

- receives an alcohol and drug evaluation;
- completes a level I or II alcohol and drug driving safety education or treatment program; and
- abstains from using alcohol for one year.

Treatment. The courts also have the authority to sentence an offender to probation for up to two years for the purpose of drug and alcohol treatment. Repeat offenders may be sentenced to two additional years of probation for the purpose of monitoring compliance with court orders. The courts also have the authority to sentence a DUI offender to attend and pay for one appearance at a victim impact panel.

License revocation. Upon conviction, a DUI offender is required by state law to surrender his or her driver's license to the court to convey to the Department of Revenue (DOR). The DOR subsequently issues a license revocation. There are three means in which the DOR may revoke a DUI offender's driver's license:

- mandatory revocation;
- revocation by administrative determination; and
- habitual offender revocation.

Under mandatory revocation, the DOR is required to revoke the offender's license for nine months. If the offender has past DUI, driving while ability impaired (DWAI), or habitual user offenses, his or her license is revoked for a minimum of two years and may be reissued only upon satisfactory completion of an alcohol and drug education and treatment program certified by the state.

Under administrative revocation, the DOR may also revoke a person's license due to a blood alcohol content (BAC) in excess of 0.08. Revocations for first and subsequent offenses are:

- nine months for a first violation;
- one year for a second violation; and
- two years for a third or subsequent violation.

Lastly, the DOR may revoke a person's license after determining the individual to be an habitual offender. An habitual offender (relative to driving under the influence offenses) is defined as any person who has accumulated three or more DUI, DWAI, or habitual user convictions within seven years.

Restricted license. Upon completion of license revocation periods resulting from a DUI conviction, a driver is required to hold a restricted license for at least one year. Such restrictions may include that the driver be required to install an approved interlock ignition device in his or her motor vehicle preventing the vehicle's operation if the driver has a blood alcohol content.

Felony Offenses

Colorado state law provides a felony penalty for injury-related DUI offenses, but not for repeat DUI offenses. The following violations are punishable as felonies:

- vehicular homicide while driving under the influence is a Class 3 felony;
- vehicular assault while driving under the influence is a Class 4 felony; and
- aggravated driving with a revoked license while under the influence is a Class 6 felony.

Minor Offenders

Drivers under age 21 are subject to stricter BAC laws and regulations. In addition to standard DUI and DWAI penalties, state law restricts drivers under age 21 from operating a motor vehicle while having a BAC between 0.02 and 0.05. Offenses are treated as Class A traffic infractions, incurring a fine of \$15 to \$100. Subsequent violations are treated as Class 2 traffic misdemeanors, punishable by a 10 to 90 day sentence to county jail, \$150 to \$300 fine, or both. In addition to penalties, the courts also have the authority to require the offender to perform up to 24 hours of public service and to complete an alcohol evaluation, treatment, or education program.

The DOR may revoke the license of an underage person convicted of driving with a BAC between 0.02 and 0.08 according to the following schedule:

- three months for a first violation;
- six months for a second violation; and
- one year for a third or subsequent violation.

License revocation periods may be adjusted if the conviction was for an initial offense in which the offender's BAC did not exceed 0.05.

Commercial Drivers

State law provides lower DUI blood alcohol thresholds for drivers of commercial motor vehicles. Commercial drivers are prohibited from operating a commercial motor vehicle with a BAC of 0.04 or greater. In addition to standard penalties, offenses result in the following license revocations:

- a one-year revocation for a first conviction;
- a three-year revocation for a first conviction for an offense that occurred while transporting hazardous materials; and
- a lifetime revocation for a second conviction.