

COLORADO DRUNK DRIVING LAWS

A Publication of the Office of Legislative Legal Services¹

Colorado law prohibits a person from driving a vehicle while under the influence of alcohol or drugs or while the person's ability to drive is impaired by alcohol or drugs.² These offenses are often abbreviated as "DUI" and "DWAI", respectively.

Blood or breath tests play a prominent role in the enforcement of drunk driving laws, although DUI or DWAI can be proved by other means. Under the principle of expressed consent, the law presumes that every driver has consented to take a blood, breath, saliva, or urine test when requested to do so by a law enforcement officer who has probable cause to believe that the person is DUI or DWAI³. Refusal to take the test is both admissible in court and a basis for suspension of a driver's license.

There are both criminal penalties (fines, imprisonment, and required public service) and administrative penalties for drunk driving. Courts impose criminal penalties, while the Colorado Department of Revenue (the Department) imposes the administrative penalties. Administrative penalties include "points" that are assessed against a person's driver's license and the suspension or revocation of a license due to the accumulation of points or the commission of certain offenses.

Sometimes a driver may reduce the criminal penalties through a plea bargain in court or by undergoing alcohol or drug treatment, but must still face administrative penalties assessed by the Department. In most cases the Department cannot reduce or bargain away these penalties. The following table summarizes the offenses and the penalties for the driver as listed in sections 42-4-1301, 42-2-125, 42-2-126, and 42-2-127, Colorado Revised Statutes:

¹ This summary contains information commonly requested from the Office of Legislative Legal Services (OLLS). It does not represent an official legal position of the General Assembly or the State of Colorado and does not bind the members of the General Assembly. It is intended to provide a general overview of Colorado law as of the date of its preparation. Any person needing legal advice should consult his or her own lawyer and should not rely on the information in this memorandum.

² "Driving under the influence" means driving a vehicle when a person has consumed alcohol or one or more drugs, or a combination of alcohol and one or more drugs, which affects the person to a degree that he or she is substantially incapable, mentally or physically, to exercise clear judgment, sufficient physical control, or due care in the safe operation of a vehicle. Section 42-4-1301(1) (f), Colorado Revised Statutes (C.R.S.). "Driving while ability impaired" is similar, except that the person is affected to the slightest degree so that the person is less able than he or she ordinarily would have been to exercise clear judgment, etc. Section 42-4-1301(1) (g), C.R.S.

³ Section 42-4-1301.1, C.R.S.
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Offense	License Suspension/ or Points	Fine	Jail	Public Service
1 st DWAI (At least 0.05% but less than 0.08% blood alcohol content)	3 months/8 points	\$100-\$500	2 days - 180 days	24 hrs - 48 hrs
2 nd DWAI (At least 0.05% but less than 0.08% blood alcohol content)	1 year/8 points	\$300-\$1000	45 days - 1 year	48 hrs - 96 hrs
1 st DUI (At least 0.08% blood alcohol content)	3 months/12 points	\$300-\$1000	5 days - 1 year	48 hrs - 96 hrs
2 nd DUI (At least 0.08% blood alcohol content)	1 year/12 points	\$500-\$1500	90 days - 1 year	60 hrs - 120 hrs
DUI or DWAI under 21 years old (At least 0.02% but not in excess of 0.05% blood alcohol content)	3 months/4 points	\$15-\$100	None	Up to 24 hours
DWAI with previous DUI	1 year	\$400-\$1200	60 days - 1 year	52 hrs - 104 hrs
DUI with previous DWAI	1 year	\$450-\$1500	70 days - 1 year	56 hrs - 112 hrs

In some cases, a portion of the minimum mandatory jail sentence can be suspended if the person agrees to undergo an alcohol treatment program.

In addition, persons who violate the state's drunk driving laws may have to pay court costs, penalty surcharges of up to \$500 to help pay for programs to address persistent drunk drivers, surcharges to benefit the crime victim compensation fund, fees to reinstate a driver's license after suspension or revocation, and other fees, charges, and penalties.

Still other consequences may follow. If alcohol or drugs are involved in an accident causing injury or death, the penalties for vehicular assault or vehicular homicide are more stringent. Persons convicted of a third DUI or DWAI offense within 7 years also face a mandatory 5-year license revocation under the "habitual traffic offender" statute.

This summary does not include all the details contained in state law and regulations. For more information, contact your local Driver License Office or visit a public library and ask for volume 11, sections 42-2-125 to 42-2-208 (point system and revocation procedures) and 42-4-1301 (criminal offenses and procedures) of the Colorado Revised Statutes.