

COLORADO DRUNK DRIVING LAWS

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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. A person is presumed to be DWAI if the test shows a blood alcohol level of more than 0.05 but less than 0.08.³ A person is presumed to be DUI if the test shows a blood alcohol level of at least 0.08. A person may be classified as a persistent drunk driver and subject to greater penalties if the test shows a blood alcohol level of at least 0.17.

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 DWAI⁴. Refusal to take the test is both admissible in court and a basis for revocation 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 the suspension or revocation of a license due to the commission of certain offenses or the accumulation of sufficient points assessed for violations.

Sometimes a driver may reduce his or her criminal penalties through a plea bargain in court or by undergoing alcohol or drug treatment, but he or she must still face administrative penalties assessed by the Department. In most cases the Department does not have the authority to reduce or bargain away these penalties. The following tables summarize the

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 Blood alcohol level is expressed in grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

⁴ Section 42-4-1301.1, C.R.S.

administrative and criminal penalties⁵ for driving under the influence as they appear in sections 42-4-1301, 42-2-125, 42-2-126, and 42-2-127, Colorado Revised Statutes:

ADMINISTRATIVE PENALTIES		
Violation	License Suspension	Points
BAC test of at least 0.08	9 months	
2nd BAC test of at least 0.08	1 year	
3rd or subsequent BAC test of at least 0.08	2 years	
DWAI	None	8 points
1st DUI	9 months	12 points
2nd DUI or DWAI	12 months	DWAI 8 points DUI 12 points
3rd DUI or DWAI	24 months	DWAI 8 points DUI 12 points
1st Under 21 drinking and driving (BAC of at least 0.02 but less than 0.05)	3 months - 1st offense 6 months - 2nd offense 1 year - 3rd or subsequent offense	4 points

CRIMINAL PENALTIES			
Offense	Jail	Fine	Public Service
1st DWAI	2 days - 180 days	\$200-\$500	24 hrs - 48 hrs
2nd DWAI	45 days - 1 year	\$600-\$1000	48 hrs - 96 hrs
DWAI with previous DUI	60 days - 1 year	\$800-\$1200	52 hrs - 104 hrs
1st DUI	5 days - 1 year	\$600-\$1000	48 hrs - 96 hrs

⁵ Administrative penalties for the same incident are not consecutive. For example, if a person whose license was suspended for a BAC test of at least 0.08 is subsequently convicted of DUI arising out of the same incident, the person's license is only suspended once.

CRIMINAL PENALTIES			
Offense	Jail	Fine	Public Service
2nd DUI	90 days - 1 year	\$1000-\$1500	60 hrs - 120 hrs
DUI with previous DWAI	70 days - 1 year	\$900-\$1500	56 hrs - 112 hrs
1st Under 21 drinking and driving (BAC or at least 0.02 but less than 0.05)	None	\$100	Up to 24 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.