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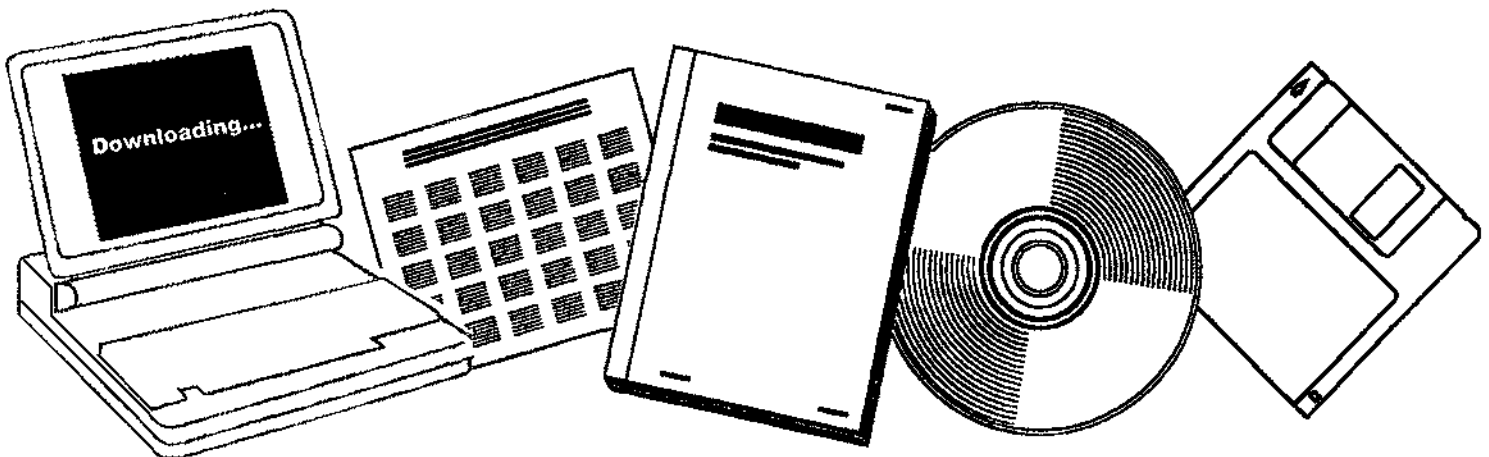
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**DIGEST OF STATE ALCOHOL-HIGHWAY SAFETY  
RELATED LEGISLATION. FOURTH EDITION**

**NATIONAL HIGHWAY TRAFFIC SAFETY  
ADMINISTRATION  
WASHINGTON, DC**

**MAR 1986**



U.S. Department of Commerce  
**National Technical Information Service**

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# A Digest of State Alcohol-Highway Safety Related Legislation

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**Fourth Edition**

**March 1986**



U.S. Department of Transportation  
**National Highway Traffic Safety  
Administration**



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Abstract: The Digest is designed for use by anyone interested in State laws related to alcohol use and highway safety. It provides the reader with the status of such State laws as of January 1, 1986. The Digest is divided into three main areas: (1) Introduction; (2) High Interest Legislation; and (3) State Law Summary. The Summary is organized by State and then by specific legal topics. The Summary includes code and, where needed, case law citations; these should help individuals conducting additional research in this area of the law.



## PREFACE

Drunk driving continues to be one of our nation's most serious public health and safety problems. It is, in fact, a national epidemic which transcends State boundaries and from which no one is immune. In excess of 50 percent of all drivers killed each year have blood alcohol concentrations (BACs) higher than the legally recognized limit, 0.10 percent. In single vehicle fatal crashes, more than 65 percent of the drivers who died were legally drunk. Over the past decade, the United States has experienced an average of 25,000 deaths per year involving alcohol. Therefore, approximately one quarter of a million persons have been killed in alcohol-related crashes in the past ten (10) years.

Injuries and costs to society are equally staggering. Over 650,000 persons per year are injured in alcohol-related crashes. Estimates of the costs of these crashes vary widely. However, it has been estimated that such crashes cost the nation over \$24 billion per year in damages, hospital costs, lost work, etc., in addition to the needless pain and suffering. The toll is especially tragic for our young. On the average, 14 teenagers are killed and 360 injured every day. The leading cause of death for the 15-to-24-year age group is drunk driving.

Because of increased national awareness, much activity concerning alcohol legislation has occurred and is occurring. This digest is an attempt to summarize the existing legislation as of January 1, 1986.





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## INTRODUCTION

### PURPOSE

This Digest is designed for use by anyone interested in State laws related to alcohol use and highway safety. It provides the reader with the status of such State laws as of January 1, 1986.

### ORGANIZATION

The Digest is divided into three main areas: (1) Introduction; (2) High Interest Legislation; and (3) State Law Summary. The Summary is organized by State and then by specific legal topics. The Summary includes code and, where needed, case law citations; these should help individuals conducting additional research in this area of the law. It should be noted that the Summary can be used to facilitate the comparison of State laws in the subject areas.

### EXPLANATIONS

The following statements clarify the contents of and/or establish certain presumptions used in the Digest.

1. For each State in the Summary, the section on "Other Tests for BAC Levels which are Authorized by Law" identifies other bodily substances (e.g., blood) which may be tested under the implied consent law. Thus, a driver who refuses to submit to such tests, if legally requested to do so by a law enforcement officer, could be subjected to the same sanctions as those specified for a refusal to submit to a chemical breath test.
2. The sanctions listed for convictions of alcohol related driving offenses (e.g., driving while impaired, driving while intoxicated, illegal per se, etc.) are those specified by statute. If a sanction is not specified by law (e.g., community service, et al.), it is not listed.
3. The term "mandatory sanction" means either a criminal sanction (e.g., jail, fine or community service) or an administrative licensing action (e.g., license suspension or revocation) which must be imposed by either a court or an administrative agency. That is, statutory law specifically requires that such sanction be given; this may be accomplished by denying either the court or the administrative agency the power to either suspend or otherwise prevent the imposition of such sanction.
4. Unless otherwise stated, the sanctions are the same for all alcohol driving offenses (e.g., driving while under the influence, illegal per se, et al.).
5. States without vehicle homicide laws treat deaths, which are caused by persons while operating motor vehicles, under their general criminal homicide laws such as manslaughter.

6. For each State in the Summary, in the section on "Driving After License has been Suspended or Revoked for an Alcohol Driving Offense," the general sanctions for operating a vehicle while in a license suspension/revocation status are given in the absence of any specific sanctions dealing with the exact subject of the section.

7. A number of States have adopted the concept of a dram shop law via case law decisions. State courts making such decisions have used a multiplicity of legal theories in their opinions. Citations to major case law decisions are given in this Digest. Note: Some States have both case law and statutes.

8. The "Open Container" Law section also includes State laws which prohibit the consumption of alcoholic beverages in motor vehicles.

9. Sanctions for a DWI and Drug Driving Offenses are the same unless otherwise specified.

10. A statute or regulation banning "Happy Hours" means one that prohibits the sale of alcoholic beverages below the price per quantity normally charged for such beverages

#### **LEGISLATIVE SUBJECT AREAS**

- o Basis for an Alcohol Driving Offense and BAC (Blood Alcohol Content) Level
- o Basis for a Drug Driving Offense (Types of Drugs)
- o Chemical Breath Tests
  - o Preliminary
  - o Evidential (Implied Consent Law)
- o Other Tests for BAC/Drugs Under the Implied Consent Law
- o Sanctions for Refusal to Submit to a Chemical Test Under an Implied Consent Law
- o Adjudication of Alcohol Driving Offenses
  - o Mandatory Adjudication
  - o Anti-Plea Bargaining Statutes
  - o Pre-Sentence Investigation
- o Sanctions Following a Conviction for an Alcohol Driving Offense
  - o Criminal
  - o Administrative (Civil: Pre-conviction and Post conviction)
  - o Rehabilitation
  - o Vehicle Impoundment
- o Homicide by Vehicle
- o Driving While License Suspended or Revoked Where the Basis was an Alcohol Driving Offense
- o Habitual Offender Laws
- o BAC Tests Required for Persons Killed as a Result of a Traffic Crash
- o Laws Establishing Minimum Ages Concerning the Use of Alcohol Beverages
- o Dram Shop Laws and Related Legal Actions

- o Laws Concerning Criminal/Administrative Actions Against Employees/Owners of Licensed Liquor Establishments who Sell Alcoholic Beverages to Persons who are under the Legal Drinking Age or who are Intoxicated
- o Laws Prohibiting "Happy Hours"
- o Laws Prohibiting the Possession of Open Containers of Alcoholic Beverages in Motor Vehicles (the Passenger Compartment)
- o Laws Prohibiting the Consumption of Alcoholic Beverages in Motor Vehicles

#### ABBREVIATIONS

cl = class  
 cons = consecutive  
 dy = day  
 dys = days  
 hr = hour  
 hrs = hours  
 mand = mandatory  
 misd = misdemeanor  
 mo = month  
 mos = months  
 N/A = not applicable  
 n.a. = not available  
 off = offense  
 offs = offenses  
 rev = revocation  
 susp = suspension  
 UVC = Uniform Vehicle Code  
 veh = vehicle  
 w/n = within  
 yr = year  
 yrs = years

#### FEEDBACK

We intend, of course, to update this publication periodically. Accordingly, the NHTSA staff would appreciate receiving any comments that you might have concerning improving any future digest's readability or accuracy.

Any comments, corrections or new information should be sent to:

National Highway Traffic Safety Administration  
 Office of Alcohol and State Programs - Code WTS-20  
 400 7th Street, S.W.  
 Washington, D.C. 20590

Attention: Legislative Resource Center

Telephone: (202) 426-9581

Finally, NHTSA staff hopes that this document will be useful to you. If you are interested in receiving updates to this Digest, please let us know via either telephone or letter.





ANALYSIS BY STATES -- HIGH-INTEREST LEGISLATION

STATE	PBT Law	Implied Consent Ref Mand Min Lic Action		Admin-istrative Per Se (BAC Level)	Administrative Per Se (Mand Min Licensing Action)			Illegal Per Se (BAC Level)	Pre-sumptive (BAC Level)	In Vehicle		Draw Shop Law	Legal Purch/Sale for Alc Bev	STATE
		1st Refusal	2nd Refusal		1st Offense	2nd Offense	3rd Offense			Open Con-tainer	Anti-Consump-tion			
AL		S-90 dys	S-1 yr	N	--	--	--	0.10	0.10			Statute	21	AL
AK	X	R-90 dys	R-1 yr	Y-0.10	R-30 dys	R-1 yr	R-10 yrs	0.10	--			Statute	21	AK
AZ		S-12 mos	S-12 mos	N	--	--	--	0.10	0.10		X <sup>11</sup>	Case Law	21	AZ
AR		S-6 mos	S-1 yr	N	--	--	--	0.10	--		X <sup>13</sup>	No	21	AR
CA		S-6 mos	S-2 yrs	N <sup>18</sup>	--	--	--	0.10	0.10	X	X	Statute <sup>14</sup>	21	CA
CO	X	R-1 yr	R-1 yr	Y-0.15	R-1 yr	R-1 yr	--	0.15	.05-.10 <sup>7</sup>		X	Statute	18/21 <sup>15</sup>	CO
CT		S-6 mos	S-1 yr	N	--	--	--	0.10	--			Statute <sup>31</sup>	21	CT
DE	X	R-6 mos	R-18 mos	Y <sup>20</sup>	R-3 mos	R-1 yr	R-18 mos	0.10	0.10 <sup>6</sup>			No	21	DE
DC		S-12 mos	S-12 mos	Y <sup>21</sup>	--	--	--	0.10	0.05 <sup>6</sup>		X	Case Law	18/21 <sup>16</sup>	DC
FL	X	--	S-1 yr	N	--	--	--	0.10	0.10			Statute <sup>4</sup>	21	FL
GA		S-6 mos	S-6 mos	N	--	--	--	0.12	0.10			Possible <sup>27</sup>	21	GA
HI		R-12 mos	R-2 yrs	N	--	--	--	0.10	--	X	X	Case Law	18	HI
ID		S-120 dys	S-120 dys	N	--	--	--	0.10	>0.08	X		Case Law	19	ID
IL		--	S-90 dys	Y-0.10	--	S-90 dys	S-90 dys	0.10	0.10	X		Statute <sup>31</sup>	21	IL
IN	X	S-1 yr	S-1 yr	Y-0.10	S-180dys <sup>3</sup>	S-180dys <sup>3</sup>	--	0.10	0.10 <sup>6</sup>			Case Law	21	IN
IA	X <sup>17</sup>	R-240 dys <sup>28</sup>	R-360 dys <sup>28</sup>	Y-0.10	--	--	--	0.13	0.10	N	X	Statute	19	IA
KS		--	--	N	--	--	--	0.10	0.10 <sup>6</sup>	X	X	No	21	KS
KY	X	--	--	N	--	--	--	--	0.10		X	Case Law	21	KY
LA		S-90 dys	S-545 dys	Y-0.10	S-30 dys	S-365 dys	S-365 dys	0.10	0.10			Possible <sup>27</sup>	18	LA
ME		S-90 dys	S-1 yr	Y-0.10	--	S-1 yr	--	0.10	--			Statute <sup>31</sup>	21	ME
MD	X	--	--	N	--	--	--	--	.08-.13 <sup>6,26</sup>	X <sup>10</sup>	X <sup>11</sup>	No	21	MD
MA		S-90 dys	S-90 dys	N	--	--	--	--	0.10		X <sup>11</sup>	Case Law	21	MA
MI	X	--	S-1 yr	N	--	--	--	0.10	.07-.10 <sup>7</sup>	X	X	Statute	21	MI
MN	X	--	--	Y-0.10	--	--	--	0.10	--	X	X	Statute	19	MN
MS	X	S-90 dys <sup>2</sup>	S-90 dys <sup>2</sup>	Y-0.10 <sup>12</sup>	--	--	--	0.10	--			Case Law	21 <sup>25</sup>	MS
MO		--	R-1 yr	Y-0.13	R-1 yr <sup>29</sup>	R-1 yr <sup>29</sup>	R-1 yr <sup>29</sup>	0.10	0.10 <sup>6</sup>			Statute <sup>17</sup>	21	MO
MT		S-90 dys	R-1 yr	N	--	--	--	0.10	0.10	X	X	No	19	MT
NE	X	R-60 dys	R-6 mos	N	--	--	--	0.10	--		X	No	21	NE
NV	X	R-1 yr	R-3 yrs	Y-0.10	--	--	--	0.10	0.10		X <sup>11</sup>	No	21	NV
NH	X	R-90 dys	R-1 yr	N	--	--	--	0.10	0.10 <sup>6</sup>		X <sup>13</sup>	Possible <sup>27</sup>	21	NH
NJ		R-6 mos	R-2 yrs	N	--	--	--	0.10	--		X	Case Law	21	NJ
NI		R-1 yr	R-1 yr	Y-0.10	R-90 dys <sup>5</sup>	R-1 yr <sup>5</sup>	R-1 yr	0.10	0.10			Statute	21	NI
NY	X	R-6 mos	R-1 yr	N <sup>22</sup>	--	--	--	0.10	.08-.10 <sup>6</sup>		X	Statute	21	NY
NC	X	R-6 mos	R-12 mos	Y-0.10 <sup>12</sup>	--	R-10 dys	--	0.10	--	X <sup>10</sup>	X <sup>10,11</sup>	Statute	21	NC
ND	X	R-1 yr	R-1 yr	Y-0.10	S-30 dys	S-364 dys	S-2 yrs	0.10	--	X	X	Statute	21	ND
OH		--	--	N <sup>22</sup>	--	--	--	0.10	--		X	Statute	18/21 <sup>32</sup>	OH
OK		--	--	Y-0.10	--	--	--	0.10	0.10 <sup>6</sup>	X	X	No	21	OK
OR		S-90 dys	S-1 yr	Y-0.08	--	S-90 dys	S-90 dys	0.08	0.08 <sup>24</sup>	X	X	Statute	21	OR
PA	X	S-12 mos	S-12 mos	N	--	--	--	0.10	0.10		X <sup>11</sup>	Statute	21	PA
PB	X	--	--	N	--	--	--	--	0.10			No	18	PB
RI	X	S-3 mos	S-1 yr	N	--	--	--	0.10	--		X <sup>11</sup>	Statute <sup>31</sup>	21	RI
SC		S-90 dys	S-90 dys	N	--	--	--	--	0.10	X	X <sup>13</sup>	Possible <sup>27</sup>	21	SC
SD	X	--	--	N	--	--	--	0.10	0.10	X		No	18/21 <sup>15</sup>	SD
TN		--	--	N	--	--	--	--	0.10			Case Law	21	TN
TX		--	--	N	--	--	--	0.10	--			No	21	TX
UT		R-1 yr	R-1 yr	Y-0.08	S-90 dys	S-120 dys	S-120 dys	0.08	--	X		Statute	21	UT
VT	X	S-6 mos	S-18 mos	N	--	--	--	0.10	0.10		X <sup>11</sup>	Statute	18	VT
VA	X	S-6 mos	S-1 yr	N	--	--	--	0.15	0.10		X <sup>13</sup>	No	21	VA

ANALYSIS BY STATES — HIGH-INTEREST LEGISLATION (continued)

STATE	PBT Law	Implied Consent Ref Mand Min Lic Action		Admin-istrative Per Se (BAC Level)	Administrative Per Se (Mand Min Licensing Action)			Illegal Per Se (BAC Level)	Pre-sumptive (BAC Level)	In Vehicle		Dram Shop Law	Legal Purch/Sale for Alc Buy	STATE
		1st Refusal	2nd Refusal		1st Offense	2nd Offense	3rd Offense			Open Con-tainer	Anti-Consump-tion			
MA		R-1 yr	R-2 yrs	N	—	—	—	0.10	—	X	X	Case Law <sup>30</sup>	21	MA
WV	X	R-1 yr	R-5 yrs	Y-0.10 <sup>23</sup>	R-90 dys	R-5 yrs	R-10 yrs	—	0.10 <sup>6</sup>		X	No	1942 <sup>19</sup>	WV
MI	X	—	R-60 dys	N	—	—	—	0.10	—	X	X	Case Law	19	MI
NY		S-6 mos	S-6 mos	Y-0.10	—	S-90 dys	S-90 dys	—	0.10			Statute	19	NY
TOTAL	25	S - 21 R - 16	S - 22 R - 20	Admin Per Se - 21	S - 5 R - 6	S - 8 R - 7	S - 6 R - 5	.08 - 2 .10 - 38 .12 - 1 .13 - 1 .15 - 2	>.08 - 1 .10 - 22 .10 <u>prima facie</u> - 7 Other - 5	19	33	Case Law - 12 Statute - 23 Possible Case Law - 4	18 - 4 19 - 7 20 - 0 21 - 37 18/21 - 2 19/21 - 2	

S = Suspension  
R = Revocation  
Y = Yes  
N = No

2-2

<sup>1</sup>Applies only when there has been either an injury or death related accident.  
<sup>2</sup>License suspension for one (1) year if the driver has prior DWI offense conviction.  
<sup>3</sup>Suspension up to 180 days or until the DWI charges have been disposed of which ever occurs first.  
<sup>4</sup>Applies only to the actions of intoxicated minors or persons known to be habitually addicted to alcohol.  
<sup>5</sup>Applies to persons 18 years old or above.  
<sup>6</sup>BAC level or levels which indicated prima facie evidence.  
<sup>7</sup>The lower of the two numbers is driving while impaired; the higher is driving while under the influence.  
<sup>8</sup>This state has both prima facie and presumptive evidence laws with BAC levels of 0.10.  
<sup>9</sup>The statute applies specifically to the actions of intoxicated minors, but the law does not foreclose developing case law as to other types of dram shop actions.  
<sup>10</sup>Limited application.  
<sup>11</sup>Applies to drivers only.  
<sup>12</sup>Special provisions/procedures.  
<sup>13</sup>Possible.  
<sup>14</sup>Applies only to the actions of intoxicated minors; previous case law as to other types of dram shop actions has been specifically abrogated by legislation.  
<sup>15</sup>18/19 for 3.2% beer; 21 for all other alcoholic beverages.  
<sup>16</sup>18 for beer and light wine (14% alcohol or less); 21 for all other alcoholic beverages.  
<sup>17</sup>Cause of action limited to licensees who have been convicted of selling alcoholic beverages to minors or to intoxicated individuals.

<sup>18</sup>Special license susp/rev. periods for persons who have been involved in a DWI related accident and who have had a previous DWI related vehicle homicide conviction.  
<sup>19</sup>19 for state residents; 21 for out-of-state residents.  
<sup>20</sup>Based on probable cause of DWI.  
<sup>21</sup>Based on sufficient evidence of DWI.  
<sup>22</sup>Discretionary (Pre-DWI criminal adjudication) licensing action by the courts.  
<sup>23</sup>Or under the influence of alcohol.  
<sup>24</sup>Not less than 0.08 constitutes being under the influence of intoxicating liquor.  
<sup>25</sup>Eff. 10/1/86; until this date, 18 for 4% beer and wine; 21 for all other alcoholic beverages.  
<sup>26</sup>The lower of the two numbers is driving while under the influence; the higher is driving while intoxicated.  
<sup>27</sup>Possible case law.  
<sup>28</sup>A restricted license may be issued for an implied consent law violation provided the defendant pleads guilty to a subsequent DWI charge.  
<sup>29</sup>Applies only to intoxicated offenses; for illegal per se and admin. per se actions, a restricted hardship license may be granted provided the defendant has not received such a privilege with the past 5 years.  
<sup>30</sup>Applies only to the actions of (1) intoxicated minors and/or (2) adults who have lost their will to stop drinking.  
<sup>31</sup>This state has a statute that places a monetary limit on the amount of damages that can be awarded in dram shop liability actions.  
<sup>32</sup>19 for beer; 21 for wine and liquor.

ANALYSIS BY STATES — HIGH-INTEREST LEGISLATION (continued)

STATE	Fine (\$) (Mandatory Minimum)			Imprisonment (Mandatory Minimum)			Community Service In Lieu of Jail			License Sanction (Mandatory Minimum Following a DMI Conviction)			STATE
	First Offense	Second Offense	Third Offense	First Offense	Second Offense	Third Offense	First Offense	Second Offense	Third Offense	First Offense	Second Offense	Third Offense	
AL	--	--	--	--	48 con hrs	60 dys	--	20 dys	--	S-90 dys	R-1 yr	R-3 yrs	AL
AK	--	--	--	72 con hrs	20 con dys	30 con dys	--	--	--	R-30 dys	R-1 yr	R-10 yrs	AK
AZ	\$250	\$500	--	24 con hrs	60 dys	6 mos	8 hrs	--	--	S-30 dys	R-1 yr	R-3 yrs	AZ
AR	--	--	--	--	--	--	--	--	--	--	S-1 yr	S-2 yrs	AR
CA	\$390	\$375	\$390	--	48 hrs	120 dys <sup>2</sup>	--	10 dys	-- <sup>2</sup>	--	--	R-3 yrs	CA
CO	--	--	--	--	7 dys	7 dys	(60 hrs) <sup>11</sup>	(60 hrs) <sup>11</sup>	(60 hrs) <sup>11</sup>	--	R-1 yr	R-2 yrs	CO
CT	--	--	--	48 con. hrs	10 dys	120 dys	100 hrs	--	--	S-1 yr	S-2 yrs	S-3 yrs	CT
DE	--	--	--	--	60 dys	60 dys	--	--	--	R-90 dys	R-6 mos	R-6 mos	DE
DC	--	--	--	--	--	--	--	--	--	R-6 mos	R-1 yr	R-2 yrs	DC
FL	--	--	--	--	10 dys	30 dys	(50 hrs) <sup>11</sup>	--	--	--	R-5 yrs	R-10 yrs	FL
GA	--	--	--	--	48 hrs	10 dys	--	80 hrs	30 dys	--	S-120 dys	R-5 yrs	GA
HI	\$150-1000 <sup>1</sup>	--	--	48 hrs <sup>1</sup>	48 con hrs	--	72 hrs <sup>1</sup>	10 dys	--	S-30 dys	S-1 yr	--	HI
ID	--	--	--	--	10 dys	30 dys	--	--	--	--	S-30 dys	S-1 yr	ID
IL	--	--	--	--	48 con hrs	48 con hrs	--	10 dys	10 dys	--	--	--	IL
IN	--	--	--	--	5 dys <sup>5</sup>	5 dys <sup>10</sup>	--	10 dys	10 dys	S-30 dys	S-1 yr	S-1 yr	IN
IA	\$500 <sup>14</sup>	\$750	\$750	--	7 dys <sup>15</sup>	--	--	--	--	--	--	--	IA
KS	--	--	--	48 hrs	5 dys	90 dys	100 hrs	--	--	S-27 dys	S-120 dys	R-1 yr	KS
KY	--	--	--	--	7 dys	30 dys	--	--	--	R-30 dys	R-12 mos	R-24 mos	KY
LA	--	--	--	2 dys	15 dys	6 mos	4 dys	30 dys	--	--	R-12 mos	R-12 mos	LA
ME	\$350	\$350	\$350	48 con hrs	48 con hrs	48 con hrs	--	--	--	S-90 dys	S-1 yr	S-1 yr	ME
MD	--	--	--	--	48 con hrs	48 con hrs	--	80 hrs	80 hrs	--	--	--	MD
MA	--	--	--	--	7 dys <sup>6</sup>	60 dys	--	--	--	S-30 dys	S-1 yr	S-2 yrs	MA
MI	--	--	--	--	--	--	--	--	--	--	S-60 dys	R-1 yr	MI
MN	--	--	--	--	--	--	--	--	--	--	--	--	MN
MS	\$200	\$400	\$500	--	--	--	--	--	--	S-45 dys	S-1 yr	S-1 yr	MS
MO	--	--	--	--	48 con hrs	--	--	10 dys	--	--	R-1 yr	R-1 yr	MO
MT	--	--	--	24 con hrs <sup>3</sup>	3 dys <sup>3,7</sup>	10 dys <sup>8</sup>	--	--	--	--	R-3 mos	R-3 mos	MT
NE	--	--	--	--	48 hrs	7 dys	--	--	--	R-60 dys	R-6 mos	R-1 yr	NE
NY	--	--	--	2 dys <sup>4</sup>	10 dys <sup>17</sup>	1 yr <sup>10</sup>	48 hrs	--	--	R-45 dys	R-1 yr	R-1.5 yrs	NY
NH	--	--	--	--	7 dys <sup>8</sup>	7 dys <sup>8</sup>	--	--	--	R-90 dys	R-3 yrs	R-3 yrs	NH
NJ	--	--	--	--	48 con hrs	90 dys	--	(30 dys) <sup>11</sup>	(90 dys) <sup>11</sup>	6 mos <sup>13</sup>	2 yrs <sup>13</sup>	10 yrs <sup>13</sup>	NJ
NM	--	--	--	--	48 con hrs	48 con hrs	--	--	--	--	R-1 yr	R-5 yrs	NM
NY	\$350	\$500	\$500	--	--	--	--	--	--	--	--	--	NY
NC	--	--	--	--	7 dys	7 dys	--	--	--	R-10 dys	R-2 yrs	R-3 yrs	NC
ND	\$250	\$500	\$1,000	--	4 dys <sup>7</sup>	60 dys <sup>5</sup>	--	10 dys	--	S-30 dys	S-364 dy	S-728 dy	ND
OH	--	--	--	3 con dys	10 con dys	30 con dys	--	--	--	--	--	S-180 dys	OH
OK	--	--	--	--	--	--	--	--	--	R-6 mos	R-2 yrs	R-3 yrs	OK
OR	--	--	--	48 hrs	48 hrs	48 hrs	80 hrs	80 hrs	80 hrs	S-90 dys	S-1 yr	--	OR
PA	\$300	\$300	\$300	--	30 dys	90 dys	--	--	--	S-1 mo	S-12 mos	S-12 mos	PA
PR	--	--	--	--	--	--	--	--	--	--	--	--	PR
RI	\$200	\$500	\$500	--	48 con hrs	48 con hrs	--	--	--	S-3 mos	S-1 yr	S-2 yrs	RI
SC	\$200	--	--	48 hrs	48 hrs	60 dys	48 hrs	10 dys	--	--	S-1 yr	S-2 yrs	SC
SD	--	--	--	--	--	--	--	--	--	--	R-1 yr	R-1 yr	SD
TN	\$250	\$500	\$1,000	48 hrs	45 dys	120 dys	--	--	--	--	R-2 yrs	R-3 yrs	TN
TX	--	--	--	--	72 hrs	10 dys	--	--	--	--	--	--	TX
UT	\$150	\$299	\$299	48 hrs	48 hrs	30 dys	2 dys	10 dys	30 dys	S-90 dys	R-1 yr	R-1 yr	UT
VT	--	--	--	--	48 con hrs	48 con hrs	--	10 dys	10 dys	S-90 dys	S-18 mos	R-2 yrs	VT
VA	--	--	--	--	48 hrs	30 dys	--	--	--	--	R-2 yrs	R-5 yrs	VA

ANALYSIS BY STATES — HIGH-INTEREST LEGISLATION (continued)

STATE	Fine (\$)			Imprisonment (Mandatory Minimum)			Community Service In Lieu of Jail			License Sanction (Mandatory Minimum Following a DUI Conviction)			STATE
	First Offense	Second Offense	Third Offense	First Offense	Second Offense	Third Offense	First Offense	Second Offense	Third Offense	First Offense	Second Offense	Third Offense	
MA	\$250	\$500	\$500	24 con hrs	7 dws	7 dws	--	--	--	S-30 dws	R-1 yr	R-2 yrs	MA
NY	\$100	\$1,000	\$3,000	24 hrs	6 mos	1 yr	--	--	--	M/A	M/A	M/A	NY
MI	--	--	--	--	--	--	--	--	--	--	--	R-60 dws	MI
MT	--	--	--	--	7 dws	7 dws	--	--	--	--	S-1 yr	R-3 yrs	MT
TOTAL	15	13	12	17	42	39	10	13	7	S-15 R-9	S-17 R-23	S-12 R-29	

S = Suspension  
R = Revocation

- 1 The court must sentence defendants to at least one of these sanctions but may sentence them to more than one such sanction.
- 2 At least one period of either 48 consecutive hours of imprisonment or 10 days of community service.
- 3 Does not apply to illegal per se offense; this sanction only applies to "regular" DUI offenses.
- 4 One day imprisonment or 24 hrs of community service if rehabilitation is taken.
- 5 Must serve 48 consecutive hours.
- 6 For 14 days in a treatment facility.
- 7 At least 48 consecutive hours.
- 8 Seven (7) consecutive 24 hour periods.
- 9 Must serve 48 consecutive hours; does not apply to illegal per se offenses.
- 10 30 days if rehabilitation is taken.
- 11 Mandatory community service regardless of whether there is a mandatory imprisonment sanction.
- 12 Involving at least 40 hours.
- 13 The right to operate a motor vehicle is "forfeited."
- 14 50 - 200 hours of community service in lieu of the fine.
- 15 This sentence may not be suspended; however, the statute is silent as to probation.
- 16 Mandatory treatment of not less than 12 nor more than 48 hours; this time is to be spent in an intoxicated driver resource center.
- 17 5 days if rehabilitation is taken; 48 hours must be served consecutively.
- 18 Must serve two consecutive days.

STATE  
General Comments:

ALABAMA  
See Code of Alabama

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	Yes 0.10% §32-5A-191(a)(1)
Presumption (BAC Level):	Yes 0.10% §32-5A-194(b)(3)
Types of Drugs/Drugs and Alcohol:	(1) Any substance, (2) a Controlled Substance and (3) Alcohol and a Controlled Substance §32-5A-191(a)
Other:	N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	No
Implied Consent Law:	
Arrest Required (Yes/No):	Yes §32-5-192
Implied Consent Law Applies to Drugs (Yes/No):	No
Refusal to Submit to Chemical Test Admitted into Evidence:	Yes (Criminal & Civil Cases) §32-5A-194(c)
Other Information:	Special Note: A person who has been arrested for a DWI charge shall not be released until their BAC Level is less than 0.10; see §32-5A-191(g)

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood:	Yes §32-5-192
Urine:	Yes §32-5-192
Other:	N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	No

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	N/A
Administrative Licensing Action (Susp/Rev):	N/A
Other:	N/A

STATE - Alabama

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	<u>1st Refusal</u> - Susp-90 dys; <u>2nd Refusal</u> (w/n 5 yrs) - Susp-1 yr; Special Note: These susp appear to be mandatory §32-5-192
Other:	N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment/Fine:	<u>1st off</u> 32-5A-191(c)-Not more than 1 yr, \$250- 1,000; <u>2nd Off</u> (w/n 5 yrs) 32-5A-191(d)-Not more than 1 yr, \$500 - \$2,500, 48 consecutive hours <sup>1</sup> ; <u>3rd or subsequent offs</u> (w/n 5 yrs) 32-5A-191(e)-60, 60 dys to 1 yr, \$1,000-5,000
Mandatory Minimum Term:	2nd off - 48 cons hrs; 3rd off - 60 dys
Mandatory Minimum Fine (\$):	N/A

Other Penalties:

Community Service:	<u>1st conviction</u> 32-5A-191(c)-; <u>2nd Off</u> (w/n 5 yrs) 32-5A-191(d)-Not less than 20 dys <sup>1</sup>
Restitution (eg Victim's Fund)	Special Note: Under Act 83-508, a defendant may be required to pay restitution to a victim (or a victim's representative) as a result of damages caused by the defendant's criminal behavior.
Other:	N/A

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:	No
UVC Type of Provisions:	<u>1st Off</u> - No; <u>2nd off</u> - Yes UVC 6-205
Other:	N/A

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<sup>1</sup>The 20-dy community service sanction may be used as an alternative to the 48 consecutive hour imprisonment term.

Sanctions Following a Conviction for a DWI Off: (continued)

Post DWI Conviction Licensing Action:

Type of Licensing Action  
(Susp/Rev) and Term of  
Withdrawal:

1st off - Susp, 90 dys 32-5A-191(c); 2nd off  
- Rev, 1 yr 32-5A-191(d); 3rd or subsequent  
offs - Rev.-3 yrs 32-5A-191(e)

Mandatory Minimum Term of  
Withdrawal:

1st off - 90 dys; 2nd off - 1 yr; 3rd or  
subsequent offs - 3 yrs

Other:

Rehabilitation:

Alcohol Education:

1st off - Yes 32-5A-191(c)

Alcohol Treatment:

1st off - Yes 32-5A-191(c)

Alcohol Education/  
Treatment as an Altern-

ative to Criminal  
Licensing Actions  
(Describe):

None

Vehicle Impoundment/Confiscation:

Authorized by Specific

Statutory Authority:

None

Terms Upon Which Vehicle

Will Be Released:

None

Other:

None

Miscellaneous Sanctions

Not Included Elsewhere:

None

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense:

Yes, "Homicide By Veh"; §32-5A-192

Sanctions:

Criminal Sanction:

Imprisonment (Term):

Not less than 1 yr nor more than 5 yrs

Mandatory Minimum Term:

N/A

Fine (\$ Range):

Not less than \$500 nor more than \$2,000  
(and/or Imprisonment)

Mandatory Minimum Fine:

\$500

Other Criminal Actions Related to Alcohol  
Use and Driving: (continued)

## Administrative Licensing Action:

Licensing Authorized and Type of Action:	Rev §32-5A-195(j)(1)
Length of Term of Licensing Withdrawal:	Not more than 1 yr §32-5A-195(m)
Mandatory Action--Minimum Length of License Withdrawal:	N/A
Other:	N/A

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:

## Sanction:

## Criminal:

Imprisonment (Term):	(Misd) not more than 180 dys (and/or fine); §32-6-19
Mandatory Minimum Term of Imprisonment:	N/A
Fine (\$ Range):	Not less than \$100 nor more than \$500 (and/or imprisonment); §32-6-19
Mandatory Minimum Fine:	\$25

## Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev):	Rev (at the discretion of the director of public safety) §32-6-19
Length of Term of License Withdrawal Action:	An additional period of 6 mos §32-6-19
Mandatory Term of License Withdrawal Action:	N/A

## Habitual Offender Laws:

State Has Such Law (Yes/No):	No
Grounds for Being Declared an Habitual Offender:	N/A
Term of License Rev While Under Habitual Offender Status:	N/A
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status:	N/A
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	N/A
Mandatory Minimum Term of Imprisonment:	N/A
Fine (\$ Range):	N/A
Mandatory Minimum Fine (\$):	N/A
Licensing Actions (Specify):	N/A



STATE - Alabama

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Laws Requiring BAC Chemical Tests on  
Those Persons Killed in Fatal Traffic  
Crashes:

State Has Such a Law (Yes/No): No (Not specifically provided for by statute. Note: In Lankford v. Redwing Carriers, Inc., 344 So. 2d 515 (Ala., 1977), the BAC test law provisions were deemed to apply to dead persons.)

BAC Chemical Test Is Given to the  
the Following Persons:

Driver: N/A  
Vehicle Passengers: N/A  
Pedestrian: N/A

Laws Establishing the Minimum Ages  
Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 21<sup>1</sup> H.B. 6. as enacted in 1985 (Year eff. 1985)  
Minimum Age (Years) Possession: 21<sup>1</sup>  
Minimum Age (Years) Consumption: 21<sup>1</sup>

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): Yes (Note: Because of new legislation in the 1980's, this law may be limited to acts committed by intoxicated minors or those intoxicated in dry counties) §6-5-71

"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation):

No

Dram Shop Actions--Social Hosts:

Possible statutory liability under §6-5-71 and Buchanan v. Merger Enterprises, Inc., 436 So.2d 121 (1984)

Other:

N/A

Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

Type of Criminal Action: Note: This type of criminal offense was repealed by 1980 legislation.

Term of Imprisonment: N/A  
Fine (\$ Range): N/A

<sup>1</sup>Persons who are at least 19 years old prior to October 1, 1985 may continue to purchase (or be sold), consume, and possess alcoholic beverages.

STATE - Alabama

Other State Laws Related To Alcohol Use  
And Driving: (continued)

**Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): No  
Length of Term of License Withdrawal: N/A

**Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:**

Type of Criminal Action: 1st off - Misd; 2nd off - Misd; 3rd and  
subsequent Off Misd 28-3A-25(a)(3)  
Term of Imprisonment: 1st off - Not more than 6 mos; 2nd off - 3  
to 6 mos; 3rd and subsequent off 6 to 12  
mos 28-3A-25(b)(1)  
Fine (\$ Range): 1st off - \$100 to 1,000; 2nd off - \$100 to  
1,000; 3rd and subsequent off - \$100 to  
1,000 28-3A-25(b)(1)

**Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): 1st off - None; 2nd and subsequent off -  
Rev 28-3A-26  
Length of Term License Withdrawal: 1st off None; 2nd and subsequent off - 1  
yr 38-3A-26

Anti-Happy Hour Laws/Regulations: No

**Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:**

Open Container Law (Yes/No): No  
Anti-Consumption Law (Yes/No): No

STATE:

ALASKA

General Comments:

See Alaska Statutes

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	Yes 0.10% §28.35.030(a)(2)
Presumption (BAC Level):	N/A
Types of Drugs/Drugs and Alcohol:	(1) A Controlled Substance and (2) Intoxicating Liquor and Another Substance §§28.35.030(a)(1) & (3)
Other:	None

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	Yes §28.35.031(b)
Implied Consent Law:	
Arrest Required (Yes/No):	Yes §28.35.031
Implied Consent Law Applies to Drugs (Yes/No):	No
Refusal to Submit to Chemical Test Admitted into Evidence:	Yes (Criminal & Civil Cases) §28.35.032(e)
Other Information:	Special Note: A chemical test may be administered to a person without their consent if they have been arrested for a DWI off where there has been an accident involving death or physical injury to another person; See §28.35.035(a)

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood:	No
Urine:	No
Other:	None

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes §28.35.030(d)

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	Infraction not more than \$300 §§28.35.031(e) & 28.35.230(c)

STATE - Alaska

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Administrative Licensing Action (Susp/Rev):	N/A
Other:	None
Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	CI A misd. Not more than 1 yr imprisonment and/or \$5,000 fine (sanctions vary for each separate off and are the same as for DWI offs; §28.35.032(f) & (g))
Administrative Licensing Action (Susp/Rev):	1st Refusal-Not less than a 90-day rev; 2nd Refusal or a 1st refusal where there has been a previous DWI conviction-Not less than 1 yr rev <sup>1</sup> §§28.15.165, 28.15.166 & 28.15.181(c)
Other:	Special Note: All license rev periods given are <u>mandatory</u> .

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment/Fine:	CI A Misd. 1st Off - Not more than 1 yr, \$250 - 5,000; 2nd Off <sup>2</sup> (w/n 10 yrs) - Not more than 1 yr, \$500 - 5,000; Subsequent Offs <sup>2</sup> (w/n 10 yrs) - Not more than 1 yr, \$1,000 - 5,000 §12.55.135
Mandatory Minimum Term:	1st off - 72 cons hrs; 2nd off - 20 cons dys; 3rd off - 30 cons dys
Mandatory Minimum Fine (\$):	N/A
Other Penalties:	
Community Service:	CI A Misd. 1st Off - Yes <sup>3</sup> ; 2nd Off <sup>2</sup> (w/n 10 yrs) - Yes <sup>3</sup> ; Subsequent Offs <sup>3</sup> (w/n 10 yrs) - Yes <sup>3</sup> §12.55.055
Restitution (eg Victim's Fund)	CI A Misd. 1st Off - Yes; 2nd Off <sup>2</sup> (w/n 10 yrs) - Yes; Subsequent Offs <sup>2</sup> (w/n 10 yrs) - Yes §12.55.045
Other:	None

<sup>1</sup>Subsequent refusal where there have been 2 or more refusals or DWI conviction or a combination thereof - not less than a 10 yr rev. (The previous refusal/DWI conviction must have occurred within 10 yrs of the 1st refusal. §§28.15.164, 28.15.166 and 28.15.181(c))

<sup>2</sup>Special Note: A previous off is considered to be either a previous chemical test refusal or a previous DWI conviction (This note also applies to CI A misd offs for refusal to submit to a chemical test; see §28.25.032(f) & (2).)

<sup>3</sup>This community service is not an alternative to the mandatory minimum terms of imprisonment; the length and type of community service is discretionary with the court.

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: Yes 0.10, 1st Off--rev for not less than 90 dys (30 dys mandatory, a restricted hardship license may be issued for 60 dys); 2nd off (w/n 10 yrs)--rev for not less than 1 yr (mandatory)<sup>1</sup>

UVC Type of Provisions: N/A

Other: N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action  
(Susp/Rev): Rev §28.15.181(c)

Term of License Withdrawal  
(Days, Months, Years, etc.): Special Note: The revs for 1st, 2nd and subsequent DWI convictions are respectively the same as for 1st, 2nd and subsequent admin. per se offs.

Mandatory Minimum Term of  
Withdrawal: N/A

Other:

Rehabilitation:

Alcohol Education: Yes<sup>2</sup> §28.35.030(c)

Alcohol Treatment: Yes<sup>2</sup> §28.35.030(c)

Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe): No

Vehicle Impoundment/Confiscation:

Authorized by Specific  
Statutory Authority: Yes §28.35.036

Terms Upon Which Vehicle  
Will Be Released: N/A

Other: N/A

<sup>1</sup>Subsequent offs (w/n 10 yrs) - rev for not less than 10 yrs (mandatory)  
§§ 28.15.165, 28.15.166 and 28.15.181(c)

<sup>2</sup>For any DWI conviction, a defendant must complete either an alcohol education or an alcohol treatment program that the Court feels is appropriate for that defendant. § 28.35.030(c)

STATE - Alaska

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Miscellaneous Sanctions  
Not Included Elsewhere: N/A

Special Note: The Court may order the forfeiture of a driver's veh following either a DWI or chemical test refusal conviction if they have had more than one such conviction; also, under §28.35.038 municipalities may enact ordinances to impound/forfeit motor vehicles for violations of local DWI/chemical test refusal laws.

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: No  
Sanctions:

Criminal Sanction:

Imprisonment (Term): N/A  
Mandatory Minimum Term: N/A  
Fine (\$ Range): N/A  
Mandatory Minimum Fine: N/A

Homicide by Vehicle

Administrative Licensing Action:

Licensing Authorized and  
Type of Action: N/A<sup>1</sup>  
Length of Term of  
Licensing Withdrawal: N/A  
Mandatory Action--Minimum  
Length of License  
Withdrawal: N/A  
Other: N/A

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): Not less than 90 dys §28.15.291  
Mandatory Minimum Term  
of Imprisonment: 90 dys  
Fine (\$ Range): Not less than \$1,000  
Mandatory Minimum Fine: None

<sup>1</sup>Special Note: Even though this State does not have a veh homicide statute, it, nevertheless, provides for discretionary license rev for 1 yr for a conviction of manslaughter resulting from the operation of a motor vehicle.

STATE - Alaska

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev):	Rev §28.15.291
Length of Term of license	
Withdrawal Action:	Original susp or rev extended 1 yr
Mandatory Term of License	
Withdrawal Action:	None

Habitual Offender Laws:

State Has Such Law (Yes/No):	No
Grounds for Being Declared an Habitual Offender:	None
Term of License Rev While Under Habitual Offender Status:	None
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	None

Sanctions Following a Conviction of Driving While on Habitual Offender Status:

Imprisonment (Term):	N/A
Mandatory Minimum Term of Imprisonment:	N/A
Fine (\$ Range):	N/A
Mandatory Minimum Fine (\$):	N/A
Licensing Actions (Specify):	N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No):	No
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	N/A
Vehicle Passengers:	N/A
Pedestrian:	N/A

STATE - Alaska

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Laws Establishing the Minimum Ages

Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 21 §§04.16.50, .51 & .52 (Year Eff: 1983)

Minimum Age (Years) Possession: 21 (There are exemptions for parents/physicians furnishing alcoholic beverages to minors) §§04.16.50, .51 & .52

Minimum Age (Years) Consumption: 21 (There are exemptions for parents/physicians furnishing alcoholic beverages to minors) §§04.16.50, .51 & .52

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): Yes §04.21.020

"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation):

Yes Nazareo v. Urie, 638 p.2d 671 (1981)  
Note: The holding in this case limited to actions arising before §04.21.020 was amended by the legislature in 1980.

Dram Shop Actions--Social Hosts:

No (No cases)

Other:

None

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action: C1 A misd §04.16.180

Term of Imprisonment: Not more than 1 yr

Fine (\$ Range): Not more than \$5,000

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages

Withdrawn (Yes/No): Yes §04.16.180

Length of Term of License Withdrawal: 1st conviction--45 day susp; 2nd conviction -- 90 day susp; 3rd and/or subsequent convictions--discretionary (no time limit given in the statute); Note: The susps and revs are not mandatory. §04.16.180

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action: C1 A Misd §04.16.180

Term of Imprisonment: Not more than 1 yr

Fine (\$ Range): Not more than \$5,000



STATE - Alaska

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages

Withdrawn (Yes/No):

Yes §04.16.180

Length of Term License Withdrawal:

1st conviction—45 day susp; 2nd convictions  
—90 day susp; 3rd and/or subsequent  
convictions—Court's discretion (no time  
limit given in the statute.) Note: The time  
limitations are not mandatory.

Anti-Happy Hour Laws/Regulations:

No

Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:

Open Container Law (Yes/No):

No

Anti-Consumption Law (Yes/No):

No

STATE: ARIZONA  
General Comments: See Arizona Revised Statutes Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): Yes 0.10% §28-692  
Presumption (BAC Level): Yes 0.10% §28-692  
Types of Drugs/Drugs and Alcohol: Any Drug §28-692(b)  
Other: None

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: No  
Implied Consent Law:  
Arrest Required (Yes/No): Yes §28-692  
Implied Consent Law Applies to  
Drugs (Yes/No): No  
Refusal to Submit to Chemical Test  
Admitted into Evidence: Yes (Criminal & Civil Cases) 28-692K  
Other Information: None

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood: Yes §28-691  
Urine: Yes §28-691  
Other: "Other bodily substances" approved in  
§28-691 (G) but not in §28-691 (implied consent  
statute)

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No  
Anti-Plea Bargaining Statute (Yes/No): Yes §28-692(c)<sup>1</sup>  
Pre-Sentencing Investigation Law (PSI)  
(Yes/No): Yes §28-692.01A

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test:  
Criminal Sanctions (Fine/Jail): N/A  
Administrative Licensing Action  
(Susp/Rev): N/A  
Other: N/A

<sup>1</sup>A DWI charge shall not be dismissed or changed to another misd/petty off unless there is clearly an insufficient legal basis for the DWI off charge.

STATE - Arizona

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	12 month susp (Mandatory) §28-691
Other:	A person may be required to attend and successfully complete a driver training course §28-446

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment/Fine/Term:

	<u>1st off</u> C1 1 misd-Not more than 6 mos, not more than \$1,000; <u>2nd off</u> C1 1 misd (w/n 60 mos)-Not more than 6 mos, not more than \$1,000 §13-707 §28-692.01; <u>3rd off</u> (w/n 60 mos) C1 5 felony §28-692 - 1 to 2 yrs, not more than \$150,000 <sup>1</sup> §13-801
Mandatory Minimum Term:	<u>1st off</u> - 24 cons hrs; <u>2nd off</u> - 60 dys; <u>3rd off</u> - 6 mos
Mandatory Minimum Fine (\$):	<u>1st off</u> C1 1 misd-\$250; <u>2nd off</u> C1 1 misd (w/n 60 mos)-\$500; <u>3rd off</u> (w/n 60 mos) C1 5 felony §28-692.01-None

Other Penalties:

Community Service:	<u>1st off</u> (C1 1 misd)-Yes 8-24 hrs (May be used in addition to or as an alternate for imprisonment)
Restitution (eg Victim's Fund)	Upon a defendant's conviction for an off resulting in death, physical injury or economic loss to the victim, the <u>Court may order that all or any portion of the fine imposed be allocated as restitution</u> to be paid by the defendant. §13-803
Other:	<u>1st off</u> (C1 1 misd)-Traffic safety school may be required

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:	<u>1st off</u> -No; <u>2nd off</u> -No; <u>3rd off</u> -No
UVC Type of Provisions:	<u>1st off</u> -Yes; <u>2nd off</u> -Yes; <u>3rd off</u> -Yes
Other:	None

<sup>1</sup>See § 28-692.01(H) where a defendant may serve the term on a part time basis for employment purposes.

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Post DWI Conviction Licensing Action:

Type of Licensing Action

(Susp/Rev) and Mandatory

Term of License Withdrawal:

1st off-Susp, not less than 90 dys; 2nd off-Rev, not less than 1 yr; 3rd off-Rev, 3 yrs; §§28-445;28-448 & 28-692.01<sup>1</sup>

Mandatory Minimum Term of  
Withdrawal:

1st off-30 dys (After the 30-day mandatory susp, a restricted license may be issued for 60 dys.); 2nd off-1 yr; 3rd off-3 yrs

Other:

Rehabilitation:

Alcohol Education:

1st off - Yes

Alcohol Treatment:

2nd off - Yes; 3rd Off - Yes

Alcohol Education/

Treatment as an Altern-  
ative to Criminal

Licensing Actions

(Describe):

None

Vehicle Impoundment/Confiscation:

Authorized by Specific

Statutory Authority:

No

Terms Upon Which Vehicle

Will Be Released:

None

Other:

None

Miscellaneous Sanctions

Not Included Elsewhere:

None

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense:

No

Sanctions:

Criminal Sanction:

Imprisonment (Term):

None

Mandatory Minimum Term:

None

Fine (\$ Range):

None

Mandatory Minimum Fine:

None

<sup>1</sup>In addition to any other legal sanction for a DWI off conviction, a person under 18 yrs old must receive license suspension for two (2) yrs; however, restricted driving privileges are available for employment/education purposes; see §§ 1-125(4) and 8-249(A) and (D). Note: The legal purchase/possession/consumption age is 21 for all alcoholic beverages.

STATE - Arizona

Other Criminal Actions Related to Alcohol  
Use and Driving: (continued)

Administrative Licensing Action:

Licensing Authorized and  
Type of Action:

N/A Note: License rev for 1 yr for any  
homicide resulting from the operation of a motor  
veh.

Length of Term of  
Licensing Withdrawal:

N/A

Mandatory Action--Minimum

Length of License  
Withdrawal:

N/A

Other:

Note: See Restitution for Arizona

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term):

1st off - 10 dys to 6 mos; 2nd and  
subsequent offs - CI 5 felony (2 yrs) if  
convicted of a DWI off and driving while  
suspended or revoked; §28-692.02 §28-473

Mandatory Minimum Term  
of Imprisonment:

1st off - 48 hrs; 2nd or subsequent offs -  
6 mos; §28-269.02

Fine (\$ Range):

1st off - \$100 to \$300

Mandatory Minimum Fine:

None

Administrative Licensing Actions:

Type of Licensing Action  
(Susp/Rev):

1st off - For driving while suspended -  
Susp; For driving while revoked - Rev;  
2nd or subsequent offs - same as for 1st  
off; §28-473

Length of Term of License  
Withdrawal Action:

1st off - Susp equal to original susp  
period; Rev 1 additional yr of rev §28-473

Mandatory Term of License  
Withdrawal Action:

2nd and subsequent off - Same as for 1st off

Habitual Offender Laws:

State Has Such Law (Yes/No):

No

Grounds for Being Declared an

Habitual Offender:

None

STATE - Arizona

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Term of License Rev While  
Under Habitual Offender Status: None  
Type of Criminal Offense if  
Convicted on Charges of  
Driving While on Habitual  
Offender Status None  
Sanctions Following a Conviction of  
Driving While on Habitual Offender  
Status:  
Imprisonment (Term): None  
Mandatory Minimum Term of  
Imprisonment: None  
Fine (\$ Range): None  
Mandatory Minimum Fine (\$): None  
Licensing Actions (Specify): None

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on  
Those Persons Killed in Fatal Traffic  
Crashes:

State Has Such a Law (Yes/No): Yes  
BAC Chemical Test Is Given to the  
the Following Persons:  
Driver: Yes §28-691(c)  
Vehicle Passengers: No  
Pedestrian: No

Laws Establishing the Minimum Ages  
Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 21 §§4-101(20) & 4-244(9) (Year Eff: 1985)  
Minimum Age (Years) Possession: 21 §§4-101(20) & 4-244(9)  
Minimum Age (Years) Consumption: 21

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): No  
"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation): Yes, *Ontiveros v. Borak, et al.*, 667 P. 2d.  
200 (Ariz. 1983), and *Brannigan et al. v. Ray  
Buck*, 667 P. 2d. 213 (Ariz. 1983)

Dram Shop Actions--Social Hosts: No §4-301 (However, liability for minors'  
actions may still be possible) and *Proffitt v.  
Canez*, 575 P.2d 1261 (1977)

Other: N/A

STATE - Arizona

Other Criminal Actions Related to Alcohol  
Use and Driving: (continued)

**Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

Type of Criminal Action:

Misd §§4-244(14) & 4-246

Term of Imprisonment:

First two convictions - 30 dys to 6 mos;  
Subsequent convictions - 30 dys to 1 yr;  
§4-246

Fine (\$ Range):

First two convictions - \$100 to \$300;  
Subsequent convictions - \$100 to \$1,000  
§4-246

**Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):

Yes - Rev §4-210

Length of Term of License Withdrawal: Length of term not fixed

**Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:**

Type of Criminal Action:

Misd §4-244(g) (§4-246)

Term of Imprisonment:

First two convictions - 30 dys to 6 mos;  
Subsequent convictions - 30 dys to 1 yr;  
§4-246

Fine (\$ Range):

First two convictions - \$100 to 300;  
Subsequent convictions - \$100 to 1,000  
§4-246

**Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):

Yes, rev §4-210

Length of Term License Withdrawal:

Length of term not fixed

STATE - Arizona

Other Criminal Actions Related to Alcohol  
Use and Driving: (continued)

Anti-Happy Hour Laws/Regulations: Yes §4-244(24)

Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:

Open Container Law (Yes/No):

No

Anti-Consumption Law (Yes/No):

Yes — Driver only §4-244(22) Note: There  
is also a law prohibiting the consumption of  
liquor (but not beer) in a public place; See  
§4-244(20); Beer may be consumed in certain  
limited public areas.



STATE: ARKANSAS  
General Comments: See Arkansas Statutes

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): Yes 0.10% §75-2503(b)  
Presumption (BAC Level): None  
Types of Drugs/Drugs and Alcohol: Controlled Substance §§75-2003(a) & 75-2502  
Other: None

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: No  
Implied Consent Law:  
Arrest Required (Yes/No): Yes §75-1045  
Implied Consent Law Applies to  
Drugs (Yes/No): Yes §75-1045  
Refusal to Submit to Chemical Test  
Admitted into Evidence: n.a.  
Other Information: None

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood: Yes  
Urine: Yes  
Other: None

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): Yes<sup>1</sup>  
Anti-Plea Bargaining Statute (Yes/No): Yes  
Pre-Sentencing Investigation Law (PSI)  
(Yes/No): Yes §75-2506

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test:  
Criminal Sanctions (Fine/Jail): N/A  
Administrative Licensing Action  
(Susp/Rev): N/A  
Other: N/A

<sup>1</sup>Persons arrested for a DWI charge off shall be tried on such charges or plead to such charges and no such charges shall be reduced. §75-2508.

STATE - Arkansas

Sanction for Refusal to Submit to a BAC  
Chemical Test: (continued)

Refusal to Take Implied Consent  
Chemical Test:

Criminal Sanction (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	Susp for not less than 6 mos; Susp for not less than 1 yr for a subsequent refusal within 3 yrs; (§75-1045; §11 Act 549, 1983) (Mandatory)
Other:	None

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment/Fine/

Mandatory Minimum Term:

1st off<sup>1</sup>-24 hrs-1 yr \$150 - 1,000, None see  
Note; 2nd off (w/n 3 yrs)<sup>1</sup> - 7 dys-1 yr,  
\$400 to 3,000, None see Note; 3rd off (w/n 3  
yrs)<sup>1</sup> - 90 dys to 1 yr, \$900 - 5,000, None  
see Note; 4th and subsequent offs (w/n 3  
yrs)<sup>1</sup> - 1 to 6 yrs, None see Note;  
§75-2504 Note: There is a special Court cost  
of \$250 for any person pleading guilty, no  
contendere or who is found guilty of DWI.  
None

Mandatory Minimum Term:

Note: The minimum sentence may not be mandatory  
due to the suspended sentence and/or probation  
provisions of §§41-108 and 43-2331: these  
provisions may apply notwithstanding §75-2509

Mandatory Min. Fine (\$): None

Other Penalties:

Community Service: 1st off - Yes (Public Service in lieu of  
imprisonment)

<sup>1</sup>Special Note: Arkansas has two different sanctioning systems for DWI offs. One system applies to the imprisonment sanction and the other applies to the fine sanction. For the imprisonment sanction, the sanctions listed apply for any of the listed subsequent offs which have been committed within three (3) yrs of a first off. For the fine sanction, the sanctions listed apply for any of the listed subsequent offs which have been committed within five (5) yrs of a first off. For example, if a person has been convicted of a DWI off which occurred more than three but less than five yrs from a first DWI conviction, they would be imprisoned as if they were a first offender but fined as if they were a second. Note: The three yr time period as applied to the imprisonment sanction is also used to determine whether a fourth or subsequent DWI conviction is to be considered a felony.

STATE - Arkansas

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Restitution  
(to Victim's Fund)           None  
Other:                           None

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:  
Administrative Per Se Law:   None  
UVC Type of Provisions:      None  
Other:                         N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action  
(Susp/Rev) and Term of  
License Withdrawal Action:   1st off - Susp, 90-120 dys; 2nd off (w/n 3  
yrs) - Susp, 1 yr-16 mos; 3rd off (w/n 3  
yrs) - Susp, 2yrs-30 mos; 4th and subsequent  
offs (w/n 3 yrs) - Rev, 3 yrs §75-2511

Mandatory Minimum Term of  
Withdrawal:                   1st off - NONE<sup>1</sup>; 2nd off - 1 yr; 3rd  
off - 2 yrs; 4th or subsequent offs - 3 yrs

Other:

Rehabilitation:  
Alcohol Education:           Yes  
Alcohol Treatment:          Yes  
Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe):                   Note: Either an alcohol education or alcohol  
treatment program must be completed before  
either a suspended or a revoked license can be  
reinstated §75-2507

Vehicle Impoundment/Confiscation:  
Authorized by Specific  
Statutory Authority:        Yes  
Terms Upon Which Vehicle  
Will Be Released:           None

---

<sup>1</sup>Note: § 75-2511, as amended by Acts 113 & 1064 of 1985, provides for restricted hardship licenses for first offenders

STATE -- Arkansas

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Other: License plates shall be impounded for 90 dys if a driver has been arrested for driving while suspended or revoked where such susp or rev was based on an alcohol off conviction. §75-2513

Miscellaneous Sanctions  
Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:  
State Has Such Law/Type of Offense: Negligent homicide, Death based on reckless or wanton disregard of the safety of others (§75-1001)

Sanctions:  
Criminal Sanction:  
Imprisonment (Term): Not more than 1 yr  
Mandatory Minimum Term: None  
Fine (\$ Range): \$100 - \$1,000  
Mandatory Minimum Fine: None

Administrative Licensing Action:  
Licensing Authorized and  
Type of Action: Rev  
Length of Term of  
Licensing Withdrawal: 1 yr  
Mandatory Action--Minimum  
Length of License  
Withdrawal: 1 yr  
Other: N/A

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:

Sanction:  
Criminal:  
Imprisonment (Term): Misd 2 dys to 6 mos (§§ 75-341, 75-1029.1, 75-1053 and 75-2514)  
Mandatory Minimum Term  
of Imprisonment: 10 dys if susp or rev is based on a DWI charge  
Fine (\$ Range): Not more than \$500  
Mandatory Minimum Fine: N/A

Administrative Licensing Actions:  
Type of Licensing Action  
(Susp/Rev): If based on susp, susp. If based on rev, rev.

STATE - Arkansas

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Length of Term of License Withdrawal Action:	Original susp period is extended a like period. Original period of rev is extended 1 yr.
Mandatory Term of License Withdrawal Action:	Original susp period is extended a like period. Original period of rev is extended 1 yr.
<b>Habitual Offender Laws:</b>	
State Has Such Law (Yes/No):	No
Grounds for Being Declared an Habitual Offender:	None
Term of License Rev While Under Habitual Offender Status:	None
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	None
<b>Sanctions Following a Conviction of Driving While on Habitual Offender Status:</b>	
Imprisonment (Term):	None
Mandatory Minimum Term of Imprisonment:	None
Fine (\$ Range):	None
Mandatory Minimum Fine (\$):	None
Licensing Actions (Specify):	None

Other State Laws Related To Alcohol Use  
And Driving:

<b>Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:</b>	
State Has Such a Law (Yes/No):	No
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	N/A
Vehicle Passengers:	N/A
Pedestrian:	N/A
<b>Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:</b>	
Minimum Age (Years) Sale/Purchase:	21 §48-903 & §48-903.1 (Year eff: 1935)
Minimum Age (Years) Possession:	21 §48-903 & §48-903.1
Minimum Age (Years) Consumption:	N/A

STATE - Arkansas

Other State Laws Related To Alcohol Use  
And Driving: (continued)

**Dram Shop Laws and Related Legal Actions:**

State Has a Dram Shop Law (Yes/No): No

"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the Case (Case  
Citation):

No Note: For a case denying liability, see  
Carr v. Turner, 385 S.W. 2d 656 (Ark. 1965)

Dram Shop Actions--Social Hosts:

No

Other:

**Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

Type of Criminal Action:

Misd for all offenses

Term of Imprisonment:

Pkg. intox. liquors (all alc. bev. not listed  
below: 1st off.-None; sub. off.-not more  
than 1 yr. On-premises consumption of all  
alc. bev. not listed below: 1st & sub.  
off.-not more than 6 mos. Pkg. and  
on-premises consumption of beer & wine not in  
excess of 5% by wgt: None. Pkg. and  
on-premises consumption of wine not in excess of  
14%: 1st and sub. off.-10-30 days. §§  
48-529, 48-629, 48-631, 48-901, 48-1414 & 14-1415  
Pkg. intox. liquors (all alc. bev. not listed  
below): 1st off.-\$100-200; sub. offs.  
\$250-500. On-premises consumption of all  
alc bev. not listed below: 1st & sub.  
offs.-not more than \$1,000. Pkg. and  
on-premises consumption of beer and wine not in  
excess of 5% by wgt.: None. Pkg. and on  
premises consumption of wine not in excess of  
14%: 1st and sub. offs.- \$100-500.

Fine (\$ Range):

**Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):

Yes, rev or susp

Length of Term of License Withdrawal: Not specified in the statute<sup>1</sup> (see §§48-530,  
48-630, 48-911, & 48-1513)

<sup>1</sup>Except for licenses of beer and wine in which case the period is 1 yr; see § 48-525

STATE - Arkansas

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:

Type of Criminal Action:

Term of Imprisonment:

Misd for all offs. (except as noted)  
Pkg. intox. liquors (all alc. bev. not listed  
below)-1st off. None (alt. sentence under  
48-903; Not more than 10 days); sub.  
offs.-10-30 days ( 2nd off. w/n 3  
yrs.(felony)-not less than 1 yr. (see  
48-903). On-premises consumption of alc. bev.  
not listed below: 1st & sub. offs.-not more  
than 6 mos. Pkg. and on-premises consumption  
of beer and wine not in excess on 5% by wgt.:  
1st and sub. offs.-1 yr. Pkg. and  
on-premises consumption of wine not in excess of  
14%: 1st and sub. offs.-10-30 days.  
§§48-524, 48-529, 48-629, 48-631, 48-901,  
48-901.1, 48-903, 48-1414 & 48-1415.

Fine (\$ Range):

Pkg. intox. liquors (all alc. bev. not listed  
below)-1st off. \$100-200 (alt. sentence  
under 48-903; Not more than \$500); sub.  
offs.-\$250-500 days (2nd off. w/n 3  
yrs.(felony)-not more than \$5,000. (see  
48-903). On-premises consumption of alc. bev.  
not listed below: 1st & sub. offs.-not more  
than \$1,000. Pkg. and on-premises consumption  
of beer and wine not in excess on 5% by wgt.:  
1st and sub. offs.-\$500. Pkg. and  
on-premises consumption of wine not in excess of  
14%: 1st and sub. offs.-\$100-500.

Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):

Length of Term License Withdrawal:

Yes, rev or susp

Not specified in the statute<sup>1</sup> (see §§ 48-530,  
48-630, 48-911, & 48-1413)

<sup>1</sup>Except for licenses of beer and wine in which case the period is 1 yr; see § 48-525

STATE -- Arkansas

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Anti-Happy Hour Laws/Regulations: No

Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:

Open Container Law (Yes/No): No

Anti-Consumption Law (Yes/No): Yes (Probably but the law is not specific) --  
drivers and passengers §41-2913(3))



STATE:

CALIFORNIA

General Comments:

See West's Annotated California Codes

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	Yes 0.10% Veh. §§23152(b) and 23153(b)
Presumption (BAC Level):	Yes 0.10% Veh §23155(3)
Types of Drugs/Alcohol and Drugs:	(1) Any Drug & (2) a Combination of Alcohol and Any Drug §§23152 & 23153
Other:	None

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	No
Implied Consent Law:	
Arrest Required (Yes/No):	Yes Veh. §13353
Implied Consent Law Applies to Drugs (Yes/No):	Yes §23353(a)(1)
Refusal to Submit to Chemical Test Admitted into Evidence:	Yes (Criminal & Civil Cases) §13353(a)(4)
Other Information:	None

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes Veh. §13353
Urine:	Yes Veh. §13353
Other:	None

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No (Note: Under Veh. Code 23212, the court must give the reasons a DWI charge was either reduced to a lesser offense or was dismissed.)
Pre-Sentencing Investigation Law (PSI) (Yes/No):	No

Sanctions for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	N/A
Administrative Licensing Action (Susp/Rev):	N/A
Other:	N/A

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail):  
Administrative Licensing Action  
(Susp/Rev):

No

Susp-6 mos; Rev for 2 yrs if a person refuses after having been convicted of a DWI<sup>4</sup> off within 5 yrs of the date of refusal (Mandatory); Veh. §§13353<sup>2</sup> and 23157  
Rev for 3 yrs if a person refuses after having been convicted 2 or more times of a DWI<sup>4</sup> off within 5 yrs of the date of refusal (Mandatory); Veh. §§13353 and 23157  
See Special Note on p.3-31.

Other:

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment/Fine:

Non-Injury DWI Off (§§23152 et seq.), 1st Off-96 hrs-6 mos, \$390 - \$1,000; 2nd Off<sup>2</sup> (w/n 5 yr)-90 dys-1 yr, \$390 - 1,000; 3rd Off<sup>2</sup> (w/n 5 yrs.)-120 dys 1 yr, \$390 - 1,000; 4th & Sub Off<sup>2</sup> (w/n 5 yrs) - 180 dys to 1 yr, \$390 - 1,000; Injury related off's<sup>1</sup>, 1st off - \$390 - 1,000; 2nd off<sup>2</sup> (w/n 5 yrs) - \$390 - 5,000; 3rd and subsequent offs<sup>2</sup> (w/n 5 yrs) - \$1,015 - 5,000, 1 yr

Also, a person convicted of a DWI injury related offense in which more than one individual has been injured shall receive an enhanced prison term of one (1) year for each additional injured individual. The maximum number of one (1) year enhancements which may be imposed is three (3); see §23182.

Non-injury DWI off - 2nd off 48 hrs<sup>3</sup>; 3rd off - 120 dys<sup>3</sup>; 4th and sub off - 180 dys<sup>3</sup>; Injury related DWI off, 1st off - 5 dys; 2nd off - 30 dys<sup>3</sup>; 3rd off - 1 yr See Special Note on p.3-31.

Mandatory Minimum Term:

<sup>1</sup>Injury related DWI offs (§§23153 et. seq.): 1st off - 90 dys to 1 yr; 2nd off (w/n 5 yrs) 120 dys to 1 yr; and, 3rd off (w/n 5 yrs) 2 to 4 yrs.

<sup>2</sup>A previous subsequent off includes Veh. Code sec. §§23152 & 23153 and Penal Code sec. 192 offs.

<sup>3</sup>At least one period of 48 con. hours of imprisonment or 10 days of community service is mandatory; see § 23206.5

<sup>4</sup>For purposes of license sanction enhancements under §23157, a previous DWI off. includes a guilty or nolo contendere plea to reckless driving ( §23103) as a substitute for a DWI charge; see §§23103.1 & 23157(a){1}.

STATE - California

Sanctions following a Conviction for a DWI Offense:  
(continued)

Mandatory Min. Fine (\$):	<u>Non-Injury DWI Off, 1st Off - \$390; 2nd Off (w/n 5 yr)-\$375; 3rd Off (w/n 5 yrs)-\$390; 4th &amp; Sub Offs (w/n 5 yrs.)-\$390; Injury related DWI off's, 1st Off-\$390; 2nd Off (w/n 5 yrs)-\$390; 3rd &amp; Sub Off (w/n 5 yrs) - \$390</u> See Special Note below.
Other Penalties:	
Community Service:	None
Restitution (eg Victim's Fund)	Yes, <u>Injury-related DWI offs</u> (§§23153 et. seq.) See Gov't Code §13959 and Veh Code §23191(a)
Other:	A person may be held liable upto \$500 to pay for the cost of an emergency response which resulted from a DWI related offense; see Government code §§53150 et seq

Special Note: A person who has been convicted of any DWI offense and who has also refused to submit to a chemical test is subject to the following sanctions; see 23159 : DWI non-injury offs.: 1st off., if probation is granted, the court must use the following sentence structure: Jail-48 hrs. (mandatory) up to 6 mos.; fine-\$390 (mandatory) up to \$1,000; and lic. susp.-6 mos. 2nd off.-96 hrs. in jail (mandatory). 3rd off.-10 days in jail (mandatory). 4th & sub. offs.-18 days in jail (mandatory). DWI injury offs. 1st off.-48 continuous hrs. in jail (mandatory). 2nd off. 96 hrs. in jail (mandatory).sequent off includes Veh. Code sec. 23153 and Penal Code sec. 192 offs.

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:	No <sup>1</sup> (However, see Special Note below.)
UVC Type of Provisions:	None
Other:	N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action

(Susp/Rev):

Non-Injury related DWI Off, 1st off Susp - (Veh. §23161); 2nd off Susp - (Veh. §23161(b)(3)); 3rd off Rev (Veh. §23171(a)); 4th & subsequent off Rev - (Veh. §23175); Injury Related DWI Off, 1st off Susp - (Veh. §23181(a)); 2nd off Rev (Veh. 23185); 3rd & subsequent Rev - (Veh. §23191(a))  
See Special Note below

Term of License Withdrawal

(Days, Months, Years, etc.):

Non-Injury related DWI Off, 1st Off-6 mos; 2nd Off-18 mos; 3rd Off-3 yrs; 4th & subsequent-4 yrs; Injury Related DWI Off, 1st Off-1 yr; 2nd Off-3 yrs; 3rd & subsequent Off-5 yrs; Note: See generally Veh. secs. 13352 and 13352.5, See Special Note on p.3-31 and Footnote No.1 below.

<sup>1</sup>Under Veh. Code § 13352.3 persons, under 18, who are convicted of an alcohol driving off have their licenses revoked (1) until they are 18, (2) for 1 yr or (3) per Veh. Code § 13352 whichever period is longer.

Special Note: If a person is involved in an accident and they have a BAC level of 0.10 or more and they have been convicted of a DWI related vehicle homicide (w/n 5 yrs), there license shall be either suspended or revoked as follows: 1) If the accident does not result in a DWI conviction (either injury or non-injury) - suspension for 1 year (mandatory); and, 2) If the accident results in a DWI conviction (either injury or non-injury) - revocation for 3 years (mandatory). This revocation period is concurrent with any other DWI imposed restriction, suspension or revocation if this is a first DWI conviction or a second conviction w/n 5 years. This revocation period is cumulative with any other DWI imposed restrictions, suspension or revocation, if there have been two (2) or more previous DWI convictions w/n 5 yrs.

STATE - California

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Mandatory Minimum Term of  
Withdrawal:

Non-Injury related DWI Off, 1st Off--<sup>1</sup>; 2nd  
off--<sup>1</sup>; 3rd Off-3 yrs; 4th & subsequent  
Off- 4 yrs; Injury Related DWI Off, 1st  
Off-1 yr; 2nd Off - 1 yr susp.<sup>2</sup>; 3rd &  
subsequent Offs - 5 yrs

Other:

Rehabilitation:

Alcohol Education:

Probation usually requires a defendant to participate in an alcohol education program for any DWI off conviction. See Veh. §§23161, et seq. For persons convicted of a 3rd or subsequent injury or non-injury alc. off- a 1 yr alc. rehb. program is required before their license can be reinstated; see §13352(a)(5). (Note: a person convicted of a first DWI offense in a juvenile court must participate in and complete either an alcohol or drug education program; see Veh. Code 23154.)

Alcohol Treatment:

None

Alcohol Education/  
Treatment as an Altern-

ative to Criminal  
Licensing Actions

(Describe):

None

Vehicle Impoundment/Confiscation:

Authorized by Specific

Statutory Authority:

Yes, 1st DWI off - the veh may be impounded for a DWI off from 1-30 dys; 2nd and subsequent DWI offs (w/n 5 yrs) - the veh may be impounded from 1 to 90 days; Veh. §23195

Terms Upon Which Vehicle  
Will Be Released:

N/A

Other:

Note: A veh may also be impounded for a conviction of driving while license is suspended or revoked: 1st off-6 mos impoundment; 2nd and subsequent offs-12 mos impoundment; Veh. §14602

Miscellaneous Sanctions

Not Included Elsewhere:

None

<sup>1</sup>Driving privileges may be restricted (Veh. § 13352) under certain probation conditions

<sup>2</sup>One (1) yr suspension and 2 yrs restricted driving privileges if the court grants probation under Veh. sec. 23186.

STATE - California

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes - Vehicle Manslaughter See Penal Code sec. 192 and 193

Sanctions:

Criminal Sanction:

Imprisonment (Term): 1. Death caused by driving a motor veh, not involving alcohol/drugs: a. with gross negligence - 2, 4, or 6 yrs; b. without gross negligence - Not more than 1 yr; 2. Death caused by driving a motor veh in violation of Veh. sec. 23152 and 23153: a. with gross negligence - 4, 6, or 8 yrs; b. without gross negligence - Not more than 1 yr in the county jail or 16 mos, 2 or 4 yrs in the State prison.

Mandatory Minimum Term: None

Fine (\$ Range): None

Mandatory Minimum Fine: None

Administrative Licensing Action:

Licensing Authorized and

Type of Action:

For (1)(a) - Rev; For (2)(a) and (b) - Note: under Veh. sec. 13350.5, a violation of these provisions is also deemed a violation of Veh. sec. 23153, thus, the lic. susp/rev provisions of veh sec. 23153 would apply.

Length of Term of

Licensing Withdrawal:

For (1)(a) - 3 yrs; For (2)(a) and (b) - See note above

Mandatory Action--Minimum

Length of License

Withdrawal):

N/A

Other:

N/A

Driving While License Suspended or Revoked

Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term):

1st off-10 dys-6 mos; 2nd and subsequent offs (w/n 5 yrs)-30 dys-1 yr and veh impoundment; Veh. §14601.2

Mandatory Minimum Term of Imprisonment:

1st off-10 dys; 2nd and subsequent offs (w/n 5 yrs)-30 dys; For a 2nd or subsequent off w/n 7 but more than 5 yrs - 10 dys see §14601.2(g)

STATE - California

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Fine (\$ Range): 1st off-Not more than \$1,000; 2nd and subsequent offs (w/n 5 yrs)-Not more than \$2,000  
Mandatory Minimum Fine: N/A

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev): N/A  
Length of Term of License Withdrawal Action: N/A  
Mandatory Term of License Withdrawal Action: N/A

Habitual Offender Laws:

State Has Such Law (Yes/No): No  
Grounds for Being Declared an Habitual Offender: N/A  
Term of License Rev While Under Habitual Offender Status: N/A  
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: N/A  
Sanctions Following a Conviction of Driving While on Habitual Offender Status:  
Imprisonment (Term): N/A  
Mandatory Minimum Term of Imprisonment: N/A  
Fine (\$ Range): N/A  
Mandatory Minimum Fine (\$): N/A  
Licensing Actions (Specify): N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No): Yes  
BAC Chemical Test Is Given to the the Following Persons:  
Driver: Yes Veh. §13353  
Vehicle Passengers: Implied  
Pedestrian: Implied

STATE - California

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Laws Establishing the Minimum Ages  
Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 21, Bus. & Prof. Code §§25658 & 25662 (Year Eff: 1933)

Minimum Age (Years) Possession: 21, (Possession under 21 legal if minor is acting via a parent's order), Bus. & Prof. Code §§25658 & 25662

Minimum Age (Years) Consumption: 21 (This applies only to consumption on the premises of licensed establishments) Bus. & Prof. Code §§25658 & 25662

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): Yes, but limited to the serving of alcoholic beverages to obviously intoxicated minors. Bus. & Prof. Code §25602.1

"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation):

No (Note: See Bus. & Prof. Code §25602(c) and Cory v. Shierloh, 174 Cal. Rptr 500 (1981).)

Dram Shop Actions--Social Hosts:

No Civil Code §1714(c) and Cory v. Shierloh, 629 P.2d 8 (1981)

Other:

N/A

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action: Misd, (Bus. & Prof. Code §25602)

Term of Imprisonment: Not more than 6 mos, (Bus. & Prof. Code §25617)

Fine (\$ Range): Not more than \$500

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No): Yes, susp or rev

Length of Term of License Withdrawal: Length of term not fixed

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action: Misd (Bus. & Prof. Code §25658)

Term of Imprisonment: Not more than 6 mos

Fine (\$ Range): Not more than \$500



STATE - California

Other State Laws Related To Alcohol Use  
And Driving: (continued)

**Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:**

**License to Serve Alcoholic Beverages**

**Withdrawn (Yes/No):**

**Yes, susp or rev**

**Length of Term License Withdrawal:**

**Length of term not fixed**

**Anti-Happy Hour Laws/Regulations:**

**No**

**Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:**

**Open Container Law (Yes/No):**

**Yes, Veh. §§23222 & 23223**

**Anti-Consumption Law (Yes/No):**

**Yes, driver and passengers, Veh. §§23220 &  
23221**

STATE:

COLORADO

General Comments:

See Colorado Revised Statutes

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	Yes 0.15% §42-4-1202(1.5)(a)
Presumption (BAC Level):	Yes >0.05% (Driving while impaired) 0.10% (Driving under the influence) §42-4-1202(1)(a) & (b)
Types of Drugs/Drugs and Alcohol:	(1) Any Drug & (2) a Controlled Substance (Applies to both driving under the influence and driving while impaired) §§42-4-1202(1)(c)(I) & 42-4-1202(1)(d)(I)
Other:	N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	Yes §42-4-1202(2.5)
Implied Consent Law:	
Arrest Required (Yes/No):	Yes §42-4-1202(3)(a) Express consent law not implied.
Implied Consent Law Applies to Drugs (Yes/No):	Yes §42-4-1202(3)(a)(III)
Refusal to Submit to Chemical Test Admitted into Evidence:	Yes (Criminal Cases) §42-4-1202(3)(e)
Other Information:	N/A

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood:	Yes §42-4-1202
Urine:	Yes
Other:	Saliva

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	Yes <sup>1</sup> §42-4-1202(3.7)
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test: Criminal Sanctions (Fine/Jail):	No
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<sup>1</sup>One may not plead Guilty to non-alcohol or non-drug related traffic off if charged with DWI unless the prosecutor makes good a faith allegation that he/she could not establish a prima facie case on the original charge.

STATE - Colorado

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Administrative Licensing Action (Susp/Rev):	No
Other:	N/A
Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	Rev 1 yr (Mandatory) §§42-4-1202(3)(d) 42-2-122.1(3)(5) & 42-2-122.1 (6)(a)
Other:	N/A

Sanctions Following a Conviction for a DMI Offense:

Criminal Sanctions:	
Imprisonment:	
Term (Day, Months, Years Etc.):	<u>Driving under the influence/illegal per se. 1st Off-5 dys to 1 yr; 1st Off<sup>1</sup>-70 dys to 1 yr; 2nd or subsequent off (w/n 5 yrs)-90 dys to 1 yr; Driving while impaired, 1st Off-2 dys to 180 dys; 1st Off<sup>2</sup>-60 dys to 1 yr; 2nd or subsequent off-45 dys to 1 yr (if a previous impaired conviction)<sup>1</sup> §§42-4-1201 and 42-4-1202</u>
Mandatory Minimum Term:	<u>Driving under the influence/illegal per se. 1st Off-No; 1st Off<sup>1</sup>-7 dys; 2nd or subsequent off (w/n 5 yrs)-7 dys; Driving while impaired 1st Off-No; 1st Off<sup>2</sup>-6 dys; 2nd or subsequent off-5 dys; See Alcohol Treatment</u>
Fine:	
Amount (\$ Range):	<u>Driving under the influence/illegal per se. 1st Off-\$300 to 1,000; 1st Off<sup>1</sup>-\$450 to 1,500; 2nd or subsequent off (w/n 5 yrs)- \$500 to 1,500; Driving while impaired, 1st Off- \$100 to 500; 1st Off<sup>2</sup>-\$450 to 1,200; 2nd or subsequent off-\$300 to 1,000</u>
Mandatory Minimum Fine (\$):	N/A
Other Penalties:	
Community Service:	<u>Driving under the influence/illegal per se. 1st Off-48 to 96 hrs (48 hrs. mandatory); 1st Off<sup>1</sup>-56 to 112 hrs (56 hrs mandatory); 2nd or subsequent off (w/n 5 yrs)-60 to 120 hrs (60 hrs mandatory), Driving While Impaired, 1st Off-24 to 48 hrs (24 hrs mandatory), 2nd or subsequent off-48 to 96 hrs (48 hrs mandatory)</u>
Restitution (eg, Victim's Fund):	N/A

<sup>1</sup>But where there has been within 5 yrs a conviction for a driving while impaired off

<sup>2</sup>But where there has been w/n 5 yrs a conviction for a driving while under the influence off.

Sanctions Following a Conviction for a DWI Offense:

Other: Special Note: Persons assigned to community service must pay fee of no more than \$40; This is used to keep the community service self-supporting and to purchase insurance; See §42-4-1202(4)(g)(v)

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: Yes 0.15% for mandatory period of 1 yr §42-2-122.1  
UVC Type of Provisions: None  
Other: N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action (Susp/Rev): Driving while under the influence and illegal per se, 1st off - Susp; Driving while impaired, 1st off<sup>1</sup> - Variable<sup>1</sup>  
Term of License Withdrawal (Days, Months, Years, etc.): Driving while under the influence and illegal per se, 1st off-Susp Not less than 1 yr; Driving while impaired, 1st off-1 yr<sup>3</sup>; §42-2-123(8.5)

<sup>1</sup> Eight (8) points placed on driver's record; generally the accumulation of either 12 points in 12 mos or 18 points in 24 mos results in license susp for not more than one yr, but a probationary-restricted license may be issued; see 42-2-123(1)(a), (5) and (11); A conviction for either an impaired, under the influence, or illegal per se off where there has been a previous alcohol driving off convictions of any type within a 5-yr period -- Rev (42-2-122(1)(g) and 42-2-124(2)); A conviction for either an impaired, under the influence of illegal per se influence or illegal per se off where there has been two previous alcohol driving off convictions of any type -- Rev (§ 42-2-122(1)(1))

<sup>2</sup>Special Note: If the first offender is a minor, a person under 21 yrs of age (see § 2-4-402(b)), their license must be revoked for a 1 yr period. See §§ 42-2-122(i)(j) and 42-2-124(2).

<sup>3</sup>A conviction for either an impaired, under the influence, or illegal per se off where there has been a previous alcohol driving off convictions of any type within a 5-yr period -- 1 yr; A conviction for either an impaired, under the influence of illegal per se influence or illegal per se off where there has been two previous alcohol driving off convictions of any type -- Indefinite period

STATE - Colorado

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Mandatory Minimum Term of  
Withdrawal:

Driving while under the influence and illegal  
per se, 1st off -None<sup>1</sup>; Driving while  
impaired, 1st off - None; See footnote 2 and  
3

Other:

Rehabilitation:

Alcohol Education:

1st off--Yes, court may suspend mandatory  
minimum sentence

Alcohol Treatment:

1st off--Yes, court may suspend mandatory  
minimum sentence

Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe):

1st off--court may suspend mandatory minimum  
sentence if defendant completes obligation of  
level I or level II program.

Vehicle Impoundment/Confiscation:

Authorized by Specific  
Statutory Authority: No

Terms Upon Which Vehicle  
Will Be Released: N/A

Other: N/A

Miscellaneous Sanctions  
Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes, Felony (Col. Rev. Stat. §18-3-106)  
§42-4-1201

<sup>1</sup>A probationary-restricted license may be issued for reasons of employment/alcohol education, et al; see § 42-2-123(11) & (13)

<sup>2</sup>Special Note: If the first offender is a minor, a person under 21 yrs of age (see § 2-4-402(b)), their license must be revoked for a 1 yr period. See §§ 42-2-122(i)(j) and 42-2-124(2).

<sup>3</sup>A conviction for either an impaired, under the influence, or illegal per se off where there has been a previous alcohol driving off convictions of any type w/n a 5-yr period - 1 yr; A conviction for either an impaired, under the influence of illegal per se influence or illegal per se off where there has been two previous alcohol driving off convictions of any type - 2 yrs

STATE - Colorado

Other Criminal Actions Related to Alcohol  
Use and Driving: (continued)

Sanctions:

Criminal Sanction:

Imprisonment (Term): 2-4 yrs  
Mandatory Minimum Term: N/A  
Fine (\$ Range): N/A  
Mandatory Minimum Fine: N/A

Administrative Licensing Action:

Licensing Authorized and  
Type of Action: Rev  
Length of Term of  
Licensing Withdrawal: 1 yr  
Mandatory Action--Minimum  
Length of License  
Withdrawal: 1 yr  
Other: N/A

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): 1st off-30 dys to 1 yr; 2nd and subsequent  
offs-90 dys to 2 yrs; 42-2-130  
Mandatory Minimum Term  
of Imprisonment: 1st off-30 dys; 2nd and subsequent offs-90  
dys  
Fine (\$ Range): 1st off-\$500 to 1,000; 2nd and subsequent  
offs-\$500 to 3,000  
Mandatory Minimum Fine: N/A

Administrative Licensing Actions:

Type of Licensing Action  
(Susp/Rev): Rev  
Length of Term of License  
Withdrawal Action: 4 yrs  
Mandatory Term of License  
Withdrawal Action: 4 yrs; §42-2-130

Habitual Offender Laws:

State Has Such Law (Yes/No): Yes, 42-2-201  
Grounds for Being Declared an  
Habitual Offender: 3 or more serious offs in 7 yrs, or 10 or more  
convictions for offs of 4 points or more within  
5 yrs, or 18 or more convictions of 3 points or  
less within 5 yrs; §42-2-20

STATE - Colorado

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Term of License Rev While  
Under Habitual Offender Status: Rev for 5 yrs; §42-2-205  
Type of Criminal Offense if  
Convicted on Charges of  
Driving While on Habitual  
Offender Status Felony, §42-2-206  
Sanctions Following a Conviction of  
Driving While on Habitual Offender  
Status:  
Imprisonment (Term): 1-2 yrs  
Mandatory Minimum Term of  
Imprisonment: None  
Fine (\$ Range): None  
Mandatory Minimum Fine (\$): None  
Licensing Actions (Specify): None

Other State Laws Related To Alcohol Use  
And Driving:

Laws Requiring BAC Chemical Tests on  
Those Persons Killed in Fatal Traffic  
Crashes:

State Has Such a Law (Yes/No): Yes  
BAC Chemical Test Is Given to the  
the Following Persons:  
Driver: Yes  
Vehicle Passengers: N/A  
Pedestrian: Yes

Laws Establishing the Minimum Ages  
Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 18 for 3.2% beer; 21 for all other  
alcoholic beverages; §§12-46-112 & 12-47-128  
(Year Eff: 1945)  
Minimum Age (Years) Possession: 18 for 3.2% beer; 21 for all other  
alcoholic beverages (applies to possession in  
public places and motor vehs); §§12-46-112 &  
12-47-128  
Minimum Age (Years) Consumption: N/A

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): Yes, §13-21-103  
"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation): Possible, see Kerby v. Flamingo Club, Inc.,  
532 P.2d 975 (1974).  
Dram Shop Actions-Social Hosts: Possible statutory liability under §13-21-103  
Other: N/A

Other State Laws Related To Alcohol Use  
And Driving: (continued)

**Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

Type of Criminal Action: Misd<sup>1</sup>  
Term of Imprisonment: Not more than 90 days  
Fine (\$ Range): \$100 to 500

**Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Yes Susp or Rev<sup>2</sup>  
Length of Term of License Withdrawal: Susp.-Not more than 6 mos<sup>3</sup>  
Rev.-Period not specified in the statutes

**Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:**

Type of Criminal Action: Misd<sup>1</sup>  
Term of Imprisonment: Not more than 90 days  
Fine (\$ Range): \$100 to 500

**Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Yes, Susp or Rev<sup>2</sup>;  
Length of Term License Withdrawal: Susp.-not more than 6 mos.<sup>3</sup>  
Rev.-period not specified in the statutes

**Anti-Happy Hour Laws/Regulations:** No

**Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:**

<sup>1</sup>For alcoholic beverages (except 3.2% beer), see §§12-47-128(1)(a) & 12-47-130(2). For 3.2% beer, see §§12-46-112(1)(b) & 12-46-114(2)

<sup>2</sup>For alcoholic beverages (except 3.2% beer), see §12-47-110. For 3.2% beer, see §12-46-107.

<sup>3</sup>Summary suspension is allowed for not more than 15 days.



STATE - Colorado

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Open Container Law (Yes/No):  
Anti-Consumption Law (Yes/No):

No  
Yes - driver and passengers;  
§12-47-128(1)(h) (Note: The law states that "it  
is unlawful for any person: to consume malt,  
wines, or spiritous liquor in a public place";  
licensed premises are excepted)

STATE:  
General Comments:

CONNECTICUT  
See Connecticut General Statutes Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	0.10 14-227a(a)(2); driving while impaired <sup>1</sup> if BAC is greater than 0.07% but less than 0.10%; see 14-227a(b)
Presumption (BAC Level):	N/A
Types of Drugs/Drugs and Alcohol:	(1) Any Drug and (2) any Drug and Alcohol 14-227a(a)
Other:	

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	No
Implied Consent Law:	
Arrest Required (Yes/No):	Yes 14-227b
Implied Consent Law Applies to Drugs (Yes/No):	Yes 14-227b(a)
Refusal to Submit to Chemical Test Admitted into Evidence:	Yes (Criminal Cases) 14-227a(f)
Other Information:	None

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes 14-227(d)
Urine:	Yes 14-227(d)
Other:	None

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No <sup>2</sup>
Anti-Plea Bargaining Statute (Yes/No):	No Note: The law requires the State to give to the Court in open session the reasons why a criminal DWI charge was reduced or dismissed. 14-227a
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes (first-time DWI offenders; see sec 4 of P.A. 81-446)

<sup>1</sup>Driving while impaired is an infraction; see 14-227a(i)

<sup>2</sup>A pre-trial diversion program is available for first DWI offenders; see 54-56g

Sanctions for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:

Criminal Sanctions (Fine/Jail): N/A  
 Administrative Licensing Action (Susp/Rev): N/A  
 Other: N/A

Refusal to Take Implied Consent Chemical Test

Criminal Sanction (Fine/Jail): None  
 Administrative Licensing Action (Susp/Rev):

1st refusal - susp for 6 mos; 2nd refusal-Susp for 1 yr<sup>1</sup>; Subsequent refusal-Susp for 3 yrs<sup>2</sup>; (These suspensions are mandatory) 14-227b(f)  
 Other: Special Note: If a driver has a BAC level 0.10 or more or refuses to submit to the chemical test, the police dept. must hold their license for 24 hrs. See 14-227a(F) & 14-227b(c)

Sanctions Following a Conviction for a OWI Offense:

Criminal Sanctions:

Imprisonment: 1st Off-Not more than 6 mos; 2nd Off<sup>3</sup>-Not more than 1 yr; 3rd Off<sup>3</sup>-Not more than 2 yrs; 4th and sub off's<sup>3</sup> -Not more than 3 yrs 14-227a(h); Driving While Impaired (Infraction)-None; Veh Assault-c1 D felony Not more than 5 yrs 53a-60d

Mandatory Minimum Term: 1st Off-48 con. hrs 2nd off-10 days; 3rd off-120 dys; 4th and subsequent offs -1 yr

Fine:

Amount (\$ Range): 1st Off - \$500-1,000; 2nd Off<sup>3</sup> - \$500-2,000; 3rd Off<sup>3</sup> - \$1,000-4,000; 4th and subsequent off's<sup>3</sup> - \$2,000-8,000 14-227a(h); Driving While Impaired (Infraction) - Fine schedule determined by the Courts (See 51-164m); Veh Assault - C1 D felony-Not more than \$5,000

Mandatory Minimum Fine (\$): All offs - None

Other Penalties:

Community Service: 1st Off - 100 hrs in live of the 48 con. hrs. of mandatory imprisonment

Restitution (eg Victim's Fund) Yes, Criminal injuries compensation fund; see 54-209 & 54-215

Other: All offs - None

<sup>1</sup>This 1-yr susp would also apply to a 1st refusal where there has been a previous OWI off conviction.

<sup>2</sup>This 3-yr susp would also apply to a 2nd refusal where there has been a previous OWI off conviction.

<sup>3</sup>w/n 5 yrs

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: None  
UVC Type of Provisions: None  
Other: Special Note: The police may take and hold a driver's license for 24 hrs if the driver has a BAC level of 0.10% or more; see 14-227a(b)

Post DWI Conviction Licensing Action:

Type of Licensing Action (Susp/Rev): For 1st, 2nd and 3rd offs -Susp; 4th and subsequent offs - Rev 14-227a(h); Alcohol infraction - None; Veh Assault, DWI off - Susp

Term of License Withdrawal (Days, Months, Years, etc.): 1st off - 1 yr; 2nd off - 2 yrs ; 3rd off - 3 yrs; 4th and subsequent offs - Permanently; Alcohol infraction - None; Veh Assault, DWI off - 1 yr

Mandatory Minimum Term of Withdrawal: 1st off - 1 yr<sup>1</sup>; 2nd off - 2 yrs<sup>1</sup>; 3rd off - 3 yrs<sup>1</sup>; 4th and subsequent offs - Permanently<sup>1</sup>; Alcohol infraction - None; Veh Assault, DWI off - 1 yr

Other:

Rehabilitation:

Alcohol Education: Yes - For all DWI criminal offs 14-227a(k)  
Alcohol Treatment: Yes - For all DWI criminal offs 14-227a(k)  
Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe): Yes - For all DWI criminal offs

Vehicle Impoundment/Confiscation:

Authorized by Specific  
Statutory Authority: None  
Terms Upon Which Vehicle  
Will Be Released: None  
Other: None  
Miscellaneous Sanctions  
Not Included Elsewhere: None

<sup>1</sup>Note: The law does not specifically prohibit a court from reducing these susp periods.

STATE - Connecticut

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes, C1 C felony (A person is guilty of manslaughter with a motor vehicle when, while operating a motor vehicle under the influence of intoxicating liquor or any drug or both, he causes the death of another person.) 53a-56b

Sanctions:

Criminal Sanction:

Imprisonment (Term): Not more than 10 yrs; 53a-56b  
Mandatory Minimum Term: None  
Fine (\$ Range): Not more than \$5,000; 53a-41  
Mandatory Minimum Fine: None

Administrative Licensing Action:

Licensing Authorized and  
Type of Action: Susp; 53a-56b  
Length of Term of  
Licensing Withdrawal: 1 yr  
Mandatory Action--Minimum  
Length of License  
Withdrawal: None  
Other: None

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): Not more than 1 yr; 14-215(c)  
Mandatory Minimum Term  
of Imprisonment: 5 dys  
Fine (\$ Range): \$500-1,000  
Mandatory Minimum Fine: None

Administrative Licensing Actions:

Type of Licensing Action  
(Susp/Rev): 1st off - Susp; Subsequent offs - Susp;  
14-111(b)  
Length of Term of License  
Withdrawal Action: 1st off - Not less than 1 yr; Subsequent  
offs - Not less than 5 yrs  
Mandatory Term of License  
Withdrawal Action: None (Note: See 14-111(k))

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Habitual Offender Laws:

State Has Such Law (Yes/No):	No
Grounds for Being Declared an Habitual Offender:	None
Term of License Rev While Under Habitual Offender Status:	None
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	None
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	None
Mandatory Minimum Term of Imprisonment:	None
Fine (\$ Range):	None
Mandatory Minimum Fine (\$):	None
Licensing Actions (Specify):	None

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No):	Yes
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes, 14-227c
Vehicle Passengers:	None
Pedestrian:	Yes, 14-227c

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase:	21 <sup>1</sup> , 30-86 & 30-1(20) (Yr Eff: 1985)
Minimum Age (Years) Possession:	N/A
Minimum Age (Years) Consumption:	N/A

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No):	Yes, 30-102 (Note: Damages limited to \$50,000)
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation):	No
Other:	N/A

<sup>1</sup>Persons who are 20 years old as of September 1, 1985 may continue to purchase (or be sold) alcoholic beverages

STATE - Connecticut

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Dram Shop Actions-Social Hosts: No (No cases)

Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:  
Type of Criminal Action: Misd  
Term of Imprisonment: Not more than 1 yr 30-113  
Fine (\$ Range): Not more than \$1,000 30-113

Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:  
License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Susp or rev 30-55  
Length of Term of License Withdrawal: Not stated in the statute

Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:  
Type of Criminal Action: Misd  
Term of Imprisonment: Not more than 1 yr 30-113<sup>1</sup>  
Fine (\$ Range): Not more than \$1,000 30-113

Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:  
License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Susp of rev 30-55  
Length of Term License Withdrawal: Unspecified

Anti-Happy Hour Laws/Regulations: No

Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:  
Open Container Law (Yes/No): No  
Anti-Consumption Law (Yes/No): No

<sup>1</sup>Special Note: Any person, except a parent, guardian or physician who gives/delivers liquors to a minor, shall be fined not more than \$1,500 or imprisoned not more than 18 months, or both; see 30-86.

STATE:

DELAWARE

General Comments:

See Delaware Code Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): Yes 0.10% 21 §4177  
Presumption (BAC Level): None  
Types of Drugs/Drugs and Alcohol: (1) Any Drug & (2) a Combination of Alcohol and a Drug  
Other: A BAC of 0.10 is prima facie evidence that a person was under the influence of intoxicating liquor. 11 §3505

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: Yes 21 §2741  
Implied Consent Law:  
Arrest Required (Yes/No): Probably not §2740 and §2742(e)  
Implied Consent Law Applies to Drugs (Yes/No): Yes  
Refusal to Submit to Chemical Test Admitted into Evidence: Yes (Criminal & Civil Cases) 21 §2749  
Other Information: None

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes 21 §2740  
Urine: Yes 21 §2740  
Other: None

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No  
Anti-Plea Bargaining Statute (Yes/No): No  
Pre-Sentencing Investigation Law (PSI) (Yes/No): No

Sanctions for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:  
Criminal Sanctions (Fine/Jail): None  
Administrative Licensing Action (Susp/Rev): None  
Refusal to Take Implied Consent Chemical Test  
Criminal Sanction (Fine/Jail): None



STATE - Delaware

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

**Administrative Licensing Action  
(Susp/Rev):**

1st Refusal - Rev for 1 yr (6 mos mandatory); (Note: A conditional hardship license may be issued of certain limited conditions are met.); 2nd Refusal (w/n 5 yrs) - 18 mos (Mandatory Rev<sup>1</sup>); 3rd and subsequent Refusals (w/n 5 yrs) - 24 mos (Mandatory Rev<sup>1</sup>)

Sanctions Following a Conviction for a DWI Offense:

**Criminal Sanctions:**

**Imprisonment:**

1st Off - 60 dys-6 mos; 2nd or subsequent off (w/n 5 yrs) - 60 dys-18 mos; Veh Assault, A DWI related injury where there has been (1) Negligent driving (C1 B misd)-Not more than 6 mos; (2) Criminally negligent driving (C1 A misd)-Not more than 2 yrs Under 21 §4177(f) a person convicted of a second or subsequent DWI off may not receive a suspended sentence; however, there is not specific language that prohibits a Court from placing a defendant on probation after sentencing.

**Mandatory Minimum Term:**

**Fine:**

**Amount (\$ Range):**

1st Off- \$200-1,000<sup>1</sup>; 2nd or subsequent off (w/n 5 yrs)- \$500-2,000<sup>1</sup>; Veh Assault, A DWI related injury where there has been (1) Negligent driving (C1 B misd)-Not more than \$500; (2) Criminally negligent driving C1 A Misd) - Not more than \$1,000

**Mandatory Minimum Fine (\$):**

None

**Other Penalties:**

**Community Service:**

None

<sup>1</sup>For a 2nd and 3rd refusals; the driver would probably not be eligible for a conditional hardship license. 21 §§2741, 2742, 2743, 4177E

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Restitution (eg Victim's Fund) 1st Off- Yes; 2nd and subsequent off (w/n 5 yrs)- Yes 1) §9001 et seq.; An additional amount equal to 15% of any fine (whether the fine is suspended or not) is assessed against the defendant; such assessments are placed in a victim's Comp. Fund

Other: None

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: Yes  
UVC Type of Provisions: Yes 21 §2733  
Other: Note: Licensing sanctions (Rev) under the Admin Per Se law are as follows: 1st off- 3 mos; 2nd off- 1 yr; 3rd or subsequent offs- 18 mos; 2nd, 3rd, and subsequent offs include implied consent violations as well as DWI offs and are those occurring within five yrs of a first offs all admin. per se lic actions are mandatory (see 21 §§2742 and 2743)

Post DWI Conviction Licensing Action:

Type of Licensing Action (Susp/Rev): 1st Off-Rev; 2nd Off (w/n 5 yrs)-Rev; 3rd or subsequent off (w/n 5 yrs)-Rev; 21 §4177a; Veh Assault-A DWI related injury where there has been (1) negligent driving-Rev; (2) Criminally negligent driving-Rev

Term of License Withdrawal (Days, Months, Years, etc.): 1st Off-1 yr; 2nd Off (w/n 5 yrs)-1 yr; 3rd or subsequent off (w/n 5 yrs)-18 mos; Veh Assault, A DWI related injury where there has been (1) negligent driving-1 yr; (2) Criminally negligent driving-2 yrs

Mandatory Minimum Term of Withdrawal: 1st Off-90 dys (A conditional license may be issued after the first 90 dys of the rev period; 2nd and subsequent offs - 6 mos; see 21 §§4177B & 4177C (A conditional license may be issued after 6 mos of the rev period, see 21 § 4177c(b))

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Other:

Rehabilitation:

Alcohol Education: For any DWI off-Course of instruction and rehabilitation required for convicted persons prior to having their licenses/driving privileges reinstated<sup>1</sup>

Alcohol Treatment: None

Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe): None

Vehicle Impoundment/Confiscation:

Authorized by Specific  
Statutory Authority: No

Terms Upon Which Vehicle  
Will Be Released: None

Other: None Note: Impoundment or surrender of license plates/registration (for 90 dys for a 1st off and 1 yr for a second off) is authorized if vehicle operator was operating his/her vehicle while they are under license susp or rev for a DWI off. See 21 §2756.

Miscellaneous Sanctions  
Not Included Elsewhere: None

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes, 1st degree (death caused by criminally negligent driving while DWI) C1 D felony 11 §630A; 2nd degree (death caused by (1) criminally negligent driving or (2) negligent driving while DWI) C1 E felony 11 §630

Sanctions:

Criminal Sanction:

Imprisonment (Term): 1st degree-10 yrs; 2nd degree-7 yrs; 11 §4205

Mandatory Minimum Term: None

Fine (\$ Range): 1st degree-As the court may order; 2nd degree-As the court may order; 11 §4205

Mandatory Minimum Fine: None

<sup>1</sup>Subsequent offs within 5 yrs of a first - "Ordered to complete a program of education or rehabilitation which may include in-patient treatment followed by such other programs as established by training facility" for a time not to exceed 15 mos and pay a fee not to exceed the maximum fine. 21 §4177 and 4177D—Persons violating either the implied consent or admin per se laws must complete an alcohol education/alcohol rehabilitation program (21 §2743(c)).

STATE - Delaware

Other Criminal Actions Related to Alcohol Use and  
Driving: (continued)

Administrative Licensing Action:

Licensing Authorized and

Type of Action: 1st degree-Rev; 2nd degree-Rev; 21 §2732

Length of Term of

Licensing Withdrawal: 1st degree-4 yrs; 2nd degree-3 yrs

Mandatory Action--Minimum

Length of License

Withdrawal: 1st degree-4 yrs; 2nd degree-3 yrs

Other: None

Driving While License Suspended or Revoked

Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): 1st off-30 dys-6 mos; 2nd and subsequent  
offs-60 dys-1 yr; 21 §2756

Mandatory Minimum Term

of Imprisonment: 1st off-30 dys\*; 2nd and subsequent offs  
-60 dys\*; 21 §2756 (\*These special  
sanctions are mandatory where rev was based on  
vehicle homicide, et al. similar offenses where  
alcohol use was involved)

Fine (\$ Range): 1st off-\$200-500; 2nd and subsequent  
offs-\$500-1,000; 21 §2756

Mandatory Minimum Fine: 1st off-\$500\*; 2nd and subsequent offs -  
\$500\*; 21 §2756; (\*These special sanctions  
are mandatory where rev was based on vehicle  
homicide, et al.)

STATE - Delaware

Other Criminal Actions Related To Alcohol Use  
And Driving: (continued)

Administrative Licensing Actions:  
Type of Licensing Action (Susp/Rev): 1st off--Susp or rev; 2nd and subsequent offs--Susp or rev

Length of Term of License Withdrawal Action: Original period of susp or rev extended by an equal amount; 21 §2758

Mandatory Term of License Withdrawal Action: Original period of susp or rev extended by an equal amount

Habitual Offender Laws:  
State Has Such Law (Yes/No): Yes, 21 §2801 et seq.  
Grounds for Being Declared an Habitual Offender: 3 serious or 10 minor moving violations within a 5-yr period

Term of License Rev While Under Habitual Offender Status: Rev for 5 yrs if based on serious offs or for 3 yrs if based on minor moving violations

Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: Misd

Sanctions Following a Conviction of Driving While on Habitual Offender Status:  
Imprisonment (Term): 1-5 yrs  
Mandatory Minimum Term of Imprisonment: None  
Fine (\$ Range): None  
Mandatory Minimum Fine (\$): None  
Licensing Actions (Specify): License denied for 5 yrs if the habitual offender status is based on serious offs. License denied for 3 yrs if the habitual offender status is based on minor offs.

Other State Laws Related to Alcohol Use  
and Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:  
State Has Such a Law (Yes/No): Yes  
BAC Chemical Test Is Given to the Following Persons:  
Driver: Yes  
Vehicle Passengers: Yes  
Pedestrian: None

STATE - Delaware

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Laws Establishing the Minimum Ages

Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 21 4 §904(f) (Year Eff: 1983)  
Minimum Age (Years) Possession: 21 4 §904(f) (Law does not apply to alcohol use in religious services or in the home.)  
Minimum Age (Years) Consumption: 21 (Law does not apply to alcohol use in religious services or in the home.)

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): No  
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation): No (For a case denying liability, see Wright v. Moffitt, 437 A2d 554 (1981). Note especially the statements made on p.559 by the Court on third party injury liability.)  
Dram Shop Actions--Social Hosts: No  
Other: None

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action: Not specified 4 §711  
Term of Imprisonment: 1 mo 4 §903  
Fine (\$ Range): Not more than \$100 4 §903

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No): Yes, susp  
Length of Term of License Withdrawal: Not specified by statute

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action: Misd 4 §713  
Term of Imprisonment: 30 dys 4 §904  
Fine (\$ Range): Not more than \$100 (or imprisonment) 4 §904

STATE - Delaware

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages

Withdrawn (Yes/No):

Susp 4 §561

Length of Term License Withdrawal:

Not specified by statute

Anti-Happy Hour Laws/Regulations:

No

Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:

Open Container Law (Yes/No):

No

Anti-Consumption Law (Yes/No):

No

STATE:  
General Comments:

DISTRICT OF COLUMBIA  
See generally D.C. Code and D.C. Municipal  
Regulations (DCMR)

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	0.10% §40-716(b)(1)
Presumption (BAC Level):	No
Types of Drugs/Drugs and Alcohol:	(1) Any Drug & (2) a Combination of Any Drug and Alcohol §40-716(b)(1)
Other:	More than 0.05% constitutes prima facie proof of either driving while under the influence or driving while impaired §40-717.1(2)

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	No
Implied Consent Law:	
Arrest Required (Yes/No):	Yes §40-502
Implied Consent Law Applies to Drugs (Yes/No):	Yes §40-502(a)
Refusal to Submit to Chemical Test Admitted into Evidence:	Yes (Criminal & Civil Cases) §40-505(c)
Other Information:	None

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood:	Yes 40-502
Urine:	Yes 40-502
Other:	None

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes D.C. Code Ann. §23-103

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	N/A
Administrative Licensing Action (Susp/Rev):	N/A
Other:	N/A
Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	None



District of Columbia

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Administrative Licensing Action  
(Susp/Rev):

Susp for 12 mos §40-505(a)  
Mandatory (No occupational hardship  
license shall be issued; see 18 DCMR 310.7(a))

Other:

None

Sanctions Following a Conviction for a DWI Offense:

**Criminal Sanctions:**

Imprisonment:

Illegal per se/Under the Influence:<sup>1</sup> 1st Off-Not more than 90 dys; 2nd Off-(w/n 15 yrs)-Not more than 1 yr; 3rd and subsequent offs (w/n 15 yrs)-Not more than 1 yr;  
Impaired:<sup>1</sup> 1st Off-Not more than 30 dys;  
2nd Off (w/n 15 yrs)-Not more than 90 dys<sup>2</sup>  
[See §40-716(b)(1) & (12)]

Mandatory Minimum Term:

None

Fine:

Amount (\$ Range):

Illegal per se/Under the Influence:<sup>1</sup> 1st Off-Not more than \$300; 2nd Off (w/n 15 yrs)-Not more than \$5,000; 3rd off and subsequent offs (w/n 15 yrs)-Not more than \$10,000; Impaired:<sup>1</sup> 1st Off-Not more than \$300; 2nd Off (w/n 15 yrs)-Not more than \$300<sup>3</sup>

Mandatory Minimum Fine (\$):

None

Other Penalties:

Community Service:

None

Restitution (eg Victim's Fund)

None

Other:

None

**Administrative Licensing Actions:**

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:

Yes<sup>4</sup>

UVC Type of Provisions:

None

Other:

None

Post DWI Conviction Licensing Action:

Type of Licensing Action

(Susp/Rev):

Driving under the influence/illegal per se -  
Rev for all offs; Driving while impaired for  
any off - Either susp or rev at the  
discretion of D.C. officials (see D.C. code  
§40-302(a))

<sup>1</sup>See §40-716(b)(1) & (2)

<sup>2</sup>3rd and subsequent off (w/n<sup>1</sup> 5 yrs) - Not more than 1 yr

<sup>3</sup>3rd and subsequent off (w/n<sup>1</sup> 5 yrs) - Not more than \$5,000

<sup>4</sup>Under Title 18 §302.5 of the D.C. Mun. Regs., the licensing agency may suspend/revoke a driver's license on its own without a DWI Court conviction if there is sufficient evidence to indicate that a person was operating a motor veh while under the influence of intoxicating liquor, for a 1st Admin. Action - Susp 2 to 30 dys; for subsequent Admin Actions - Susp 15 to 90 dys (See Title 18 §306.1 of the D.C. Mun. Regs.)

District of Columbia

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Term of License Withdrawal  
(Days, Months, Years, etc.): Driving under the influence/illegal per se: 1st off - 6 mos; 2nd off - 1 yr; 3rd and subsequent offs - 2 yrs; see D.C. Code 40-302(a) and (b); 18 DCMR 301.1 and 306.5; Driving while impaired: 1st off - susp from 2 to 30 dys or rev for 6 mos; Subsequent offs - susp from 15 to 90 dys or rev where the time period is discretionary but must be for definitive period of time; see D.C. Code 40-302(a)

Mandatory Minimum Term of Withdrawal: Driving under the influence/illegal per se, 1st off - 6 mos; 2nd off - 1 yr; 3rd and subsequent offs - 2 yrs (Note: No occupational hardship licenses shall be issued; see 18 DCMR 310.9(a)); Driving while impaired: None (Note: Either a limited license (see 19 DCMR 309.1 et seq.) or a limited occupational hardship license (see 18 DCMR 310.1 et seq.) may be issued.)

Other:  
Rehabilitation:  
Alcohol Education: None  
Alcohol Treatment: None  
Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe): None

Vehicle Impoundment/Confiscation:  
Authorized by Specific  
Statutory Authority: No  
Terms Upon Which Vehicle  
Will Be Released: None  
Other: None  
Miscellaneous Sanctions  
Not Included Elsewhere: None

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:  
State Has Such Law/Type of Offense: Yes, negligent homicide, felony §40-713  
Sanctions:  
Criminal Sanction:  
Imprisonment (Term): Not more than 5 yrs

District of Columbia

Other Criminal Actions Related to Alcohol  
Use and Driving: (continued)

Mandatory Minimum Term: None  
Fine (\$ Range): Not more than \$5,000  
Mandatory Minimum Fine: None

Administrative Licensing Action:  
Licensing Authorized and  
Type of Action: Rev §40-716(d)(12) and 18 DCMR 301.1(b)  
and 306.5  
Length of Term of  
Licensing Withdrawal: 1st off - 6 mos; 2nd off - 1 yr; 3rd and  
subsequent offs - 2 yrs  
Mandatory Action--Minimum  
Length of License  
Withdrawal: 1st off - 6 mos; 2nd off - 1 yr; 3rd and  
subsequent offs - 2 yrs  
Other: None

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): Not more than 1 yr §40-302(e)  
Mandatory Minimum Term  
of Imprisonment: None  
Fine (\$ Range): Not more than \$5,000  
Mandatory Minimum Fine: None

Administrative Licensing Actions:

Type of Licensing Action  
(Susp/Rev): Rev/Susp  
Length of Term of License  
Withdrawal Action: Extend the period of susp or rev for an  
additional period of time which is equal to the  
length of the original susp or rev period; see  
D.C Code 40-302 and 18 DCMR 305.1 and 305.5  
Mandatory Term of License  
Withdrawal Action: licensing action is mandatory; no occupational  
license can be granted; see 18 DCMR 310.7(c)

Habitual Offender Laws:

State Has Such Law (Yes/No): No  
Grounds for Being Declared an  
Habitual Offender: None  
Term of License Rev While  
Under Habitual Offender Status: None

District of Columbia

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	None
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	None
Mandatory Minimum Term of Imprisonment:	None
Fine (\$ Range):	None
Mandatory Minimum Fine (\$):	None
Licensing Actions (Specify):	None
Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	No
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	None
Vehicle Passengers:	None
Pedestrian:	None
Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	18 for beer and light wine*; 21 for all other alcoholic beverages (*Light wine is that which contains 14% or less of alcohol by volume; see §25-103(3).) (Year Eff: 1934) §25-121
Minimum Age (Years) Possession:	N/A
Minimum Age (Years) Consumption:	18 for beer and light wine*; 21 for all other alcoholic beverages; (*Light wine is that which contains 14% or less of alcohol by volume; see §25-103(3).) (Applies only to consumption by minors on licensed premises.) §25-121
Dram Shop Laws and Related Legal Actions:	
State Has a Dram Shop Law (Yes/No):	No
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation):	Yes, Marusa v. D.C., 484 F. 2d 828 (D.C. Cir., 1973)
Dram Shop Actions--Social Hosts:	Possible under case law; see Marusa v. District of Columbia, 484 F.2d 828 (D.C. Cir., 1973)
Other:	None

District of Columbia

Other State Laws Related To Alcohol Use  
And Driving: (continued)

**Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

Type of Criminal Action: Unspecified but would probably be considered to  
be a misd  
Term of Imprisonment: Not more than 1 yr  
Fine (\$ Range): Not more than \$1,000 (D.C. Code §§25-118,  
25-121, and 25-132)

**Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Susp or rev  
Length of Term of License Withdrawal: For Rev - no new license shall be issued for 1 yr

**Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:**

Type of Criminal Action: Unspecified but would probably be considered to  
be a misd §§25-121 & 25-132  
Term of Imprisonment: Not more than 1 yr  
Fine (\$ Range): Not more than \$1,000

**Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Susp or rev  
Length of Term License Withdrawal: For Rev - no new license shall be issued for 1  
yr (D.C. Code §§25-118, 25-121, and 25-132)

**Anti-Happy Hour Laws/Regulations:** No

**Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:**

Open Container Law (Yes/No): No  
Anti-Consumption Law (Yes/No): Yes - Driver and passengers §25-128(a)

STATE:

FLORIDA

General Comments:

See Florida Statutes Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): 0.10% 316.193(1)(b) 322.262  
Presumption (BAC Level): 0.10% 322.262  
Types of Drugs/Drugs and Alcohol: Controlled Substance 316.193(1)(a) & 316.1931  
Other: None

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: Yes 316.1932(b)(1)  
Implied Consent Law:  
Arrest Required (Yes/No): Yes 316.1932(1)(a)  
Implied Consent Law Applies to  
Drugs (Yes/No): Yes 316.1932(1)  
Refusal to Submit to Chemical Test  
Admitted into Evidence: Yes (Criminal Cases) 216.1932(1)(a) &  
316.1932(1)(c)  
Other Information: Special Note: A blood test may be given a  
driver without their consent if they have been  
involved in an accident resulting in either  
death or serious bodily injury; See §316.1933

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood: Yes (Only if incapacity renders the breath  
test impractical or impossible) 322.261  
Urine: No (Note: Under 316.1932(1)(a) there is  
an implied consent to submit to a urine test for  
the purpose of detecting the presence of  
controlled substances.)  
Other: None

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): Yes (Applies only to DWI manslaughter/veh  
homicide offs; See §316.656)  
Anti-Plea Bargaining Statute (Yes/No): Yes (Fla. Stat. Ann. §316.656 (Note:  
Only applies if BAC level is 0.20% or more or  
DWI/ Manslaughter/Veh Homicide  
Pre-Sentencing Investigation Law (PSI)  
(Yes/No): No

STATE - Florida

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

**Refusal to Take a Preliminary Breath Test:**

Criminal Sanctions (Fine/Jail): None  
Administrative Licensing Action  
(Susp/Rev): None  
Other: None

**Refusal to Take Implied Consent  
Chemical Test**

Criminal Sanction (Fine/Jail): None  
Administrative Licensing Action  
(Susp/Rev): 1st refusal-Susp for 6 mos (hardship license available); Subsequent refusals-Susp for 1 yr (Mandatory §§322.261 & 322.271(2))  
Other: None

Sanctions Following a Conviction for a DWI Offense:

**Criminal Sanctions:**

Imprisonment: 1st Off-Not more than 6 mos; 2nd Off-Not more than 9 mos<sup>1</sup>  
Mandatory Minimum Term: 2nd Off-10 dys if 2nd conviction was w/n 3 yrs of a previous DWI conviction 316.193(4); 3rd and subsequent Off-30 dys if 3rd conviction was w/n 5 yrs of a previous DWI conviction 316.193(4)

**Fine:**

Amount (\$ Range): 1st Off-\$250-500; 2nd Off-\$500-1,000; 3rd and subsequent Off-\$1,000-5,000<sup>1</sup>

Mandatory Minimum Fine (\$): None

**Other Penalties:**

Community Service: 1st off-50 hrs (Required notwithstanding other sanctions)

Restitution (eg Victim's Fund) None

<sup>1</sup>For intoxication/under the influence offenses where there has been either property damage or personal injury - Misd of the 1st degree - Not more than 1 yr, not more than \$1,000 (Under §316.1931(2), the penalty imposed for this violation shall not be less than the penalties shown above for non-damage/non-injury offs)

Special Note: For the intoxication/under the influence offs where there has been serious bodily injury and any one of the following: (a) the driver was driving on suspended/revoked license (b) There is a habitual traffic offender (§322.264(1)); or (c) the driver has been a previous §316. 1931(2) convicted, felony if the third degree - Not more than 5 yrs and/or Not more than \$5,000; §§ 775.082 and 775.083.

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Other: Special Note: A 5% surcharge is levied on all fines; This surcharge is paid into a crimes compensation trust fund; See §960.25 Alcohol related crash victims are not eligible this fund. Also, \$25 shall be added to any fine imposed; this amount shall be deposited in the Emergency Medical Services Trust Fund; see §316.193(2)

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: None  
UVC Type of Provisions: None  
Other: None

Post DWI Conviction Licensing Action:

Type of Licensing Action  
(Susp/Rev): 1st Off (Non injury)-Rev; 1st Off-Intoxication or under the influence offs Bodily injury or property damage-Rev; 2nd Off (All offs)(w/n 5 yrs)-Rev; 3rd Off (All offs)(w/n 10 yrs)-Rev<sup>1</sup>

Term of License Withdrawal

(Days, Months, Years, etc.): 1st Off (Non injury)-180 dys-1 yr<sup>3</sup>; 1st Off-Intoxication or under the influence offs, Bodily injury or property damage-Not less than 3 yrs; 2nd Off (All offs)(w/n 5 yrs)-Not less than 5 yrs<sup>2</sup>

<sup>1</sup>4th off - Rev §§322.26 and 322.28 (see especially §322.28(2)(d) and 322.271(2) and (4))

<sup>2</sup>3rd off (all offs)(w/n 10 yrs) Not less than 10 yrs.

4th off (all offs) - Permanently

<sup>3</sup>A temporary restricted use license for business/employment may be issued for 45 dys following the completion fo either a driver training program or substance abuse course; the law is silent as to whether this license can be renewed for additional 45-day periods.

Special Note: Rev is permanent if an alcohol off is subsequent to a veh manslaughter/homicide off; see §322.28(2)(f) and (4)(j).



STATE - Florida

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Mandatory Minimum Term of  
Withdrawal: 1st Off-Intoxication or under the influence offs  
Bodily injury or property damage 3 yrs; 2nd  
Off (All offs)(w/n 5 yrs)-5 yrs; 3rd Off  
(All offs)(w/n 10 yrs)-10 yrs; 4th Off (All  
offs)-10 yrs

Other:

Rehabilitation:  
Alcohol Education: Yes (Required before license can be  
restored Note: Under §316.193(3) and §322.291  
alcohol education/treatment is required for a  
defendant convicted of any DWI off.)

Alcohol Treatment: None  
Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe): None

Vehicle Impoundment/Confiscation:

Authorized by Specific  
Statutory Authority: No  
Terms Upon Which Vehicle  
Will Be Released: None  
Other: None

Miscellaneous Sanctions  
Not Included Elsewhere: Special Note: Under §322.291 a defendant may be  
required to complete a driver training course  
prior to having their license reinstated

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes, Manslaughter via Veh Felony 2nd degree  
§782.07; Veh Homicide, felony 3rd degree §782.071

Sanctions:

Criminal Sanction:  
Imprisonment (Term): Manslaughter via veh - Not more than 15 yrs;  
Vehicle Homicide, Felony 3rd degree-Not more  
than 5 yrs; §775.082(c) & (d)

Mandatory Minimum Term:  
Fine (\$ Range): None  
Manslaughter via veh-Not more than \$10,000;  
Veh Homicide-Not more than \$5,000;  
§775.083(1)(b) & (c)

STATE - Florida

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Mandatory Minimum Fine: None  
Administrative Licensing Action:  
Licensing Authorized and  
Type of Action: Manslaughter via veh-Rev; Veh  
Homicide-Rev; §322.28(5) (Rev is permanent  
if the veh manslaughter/homicide off is  
subsequent to an alcohol driving off; See  
§322.28(2)(1) & (5)(b))

Length of Term of  
Licensing Withdrawal: Manslaughter via veh-Not less than 3 yrs;  
Veh Homicide-Not less than 3 yrs; (It  
appears that a restricted hardship license could  
be issued for either offense; See §322.271)

Mandatory Action--Minimum  
Length of License  
Withdrawal: None  
Other: None

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): 1st off-Not more than 60 dys (misd 2nd  
degree); 2nd and subsequent offs §322.34(1)-Not  
more than 1 yr (misd 1st degree); §775.082

Mandatory Minimum Term  
of Imprisonment: None

Fine (\$ Range): 1st off-Not more than \$500; 2nd and  
subsequent offs-Not more than \$1,000;  
§775.083

Mandatory Minimum Fine: None

Administrative Licensing Actions:

Type of Licensing Action  
(Susp/Rev): 1st off-Susp/Rev; 2nd and subsequent  
offs-Susp/Rev; §322.28(3)

Length of Term of License  
Withdrawal Action: 1st off-An additional 3 mos; 2nd and  
subsequent offs-An additional 3 mos

Mandatory Term of License  
Withdrawal Action: (See §322.271 for basis to issue restricted  
hardship license)

STATE - Florida

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Habitual Offender Laws:

State Has Such Law (Yes/No):	Yes §322.264
Grounds for Being Declared an Habitual Offender:	3 serious or 15 normal moving violations within a 5-yr period
Term of License Rev While Under Habitual Offender Status:	5-yr-Rev Period; (Note: After 12 mos, the offender may have his/her driving privileges restored.) §322.27(5)
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	Misd of the 1st degree §322.34(2)
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	Not more than 1.yr §775.082
Mandatory Minimum Term of Imprisonment:	None
Fine (\$ Range):	Not more than \$1,000 §775.083
Mandatory Minimum Fine (\$):	None
Licensing Actions (Specify):	Rev period extended an additional 3 mos §322.28(3)

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No):	No
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	None
Vehicle Passengers:	None
Pedestrian:	None

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase:	21 <sup>1</sup> §562.11(a) (yr eff: 1985)
Minimum Age (Years) Possession:	21 <sup>1</sup> (Except for employment purposes) §562.111
Minimum Age (Years) Consumption:	21 <sup>1</sup> On licensed premises §562.11(a)

<sup>1</sup>This minimum age does not apply to persons born on or before June 30, 1966. See Section 8 of S.B. 1 enacted in 1985.

STATE - Florida

Other State Laws Related to Alcohol use and Driving:  
(continued)

**Dram Shop Laws and Related Legal Actions:**

State Has a Dram Shop Law (Yes/No): **Yes \$768.125**

"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation):

Special Note: Actions under this law are  
limited to damages caused by selling alcoholic  
beverages (1) to persons under the legal  
drinking or (2) to persons habitually addicted  
to alcohol; see Barnes v. B.K. Credit Service,  
Inc., 461 So.2d 217 (Fla. App. 1984)

Dram Shop Actions--Social Hosts:

**No** See United Services Auto Assn. v. Butler,  
359 So.2d 498 (1978)

Other:

**None**

**Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

Type of Criminal Action:

**None** (Note: Fla. Stat. Ann. §562.50 makes  
it illegal to sell or dispose of in any way  
intoxicating liquors to an individual when the  
person selling or disposing of such intoxicating  
liquor has written notice that the person  
receiving such intoxicating liquor is an  
habitual drunkard.)

Term of Imprisonment:

**None**

Fine (\$ Range):

**None**

**Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

License to Serve Alcoholic Beverages

Withdrawn (Yes/No):

**None**

Length of Term of License Withdrawal: **None**

**Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:**

Type of Criminal Action:

**Misd (2nd degree) (Fla. Stat. Ann. §  
562.11)**

Term of Imprisonment:

**Not more than 60 dys**

Fine (\$ Range):

**Not more than \$500**

STATE - Florida

Other State Laws Related to Alcohol Use and Driving:  
(continued)

Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):

Yes--Susp or rev (Fla. Stat. Ann. §  
561.29(1)(a) and (w))

Length of Term License Withdrawal:

Time period is not specified in the statute.

Anti-Happy Hour Laws/Regulations:

No

Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:

Open Container Law (Yes/No):

No

Anti-Consumption Law (Yes/No):

No

STATE: GEORGIA  
General Comments: See Georgia Code Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): 0.12% 40-5-391(a)(4) & 40-6-392(a)(4)  
Presumption (BAC Level): 0.10% 40-6-392(b)(3)  
Types of Drugs/Drugs and Alcohol: (1) Any Drug & (2) a Combination of Any Drug and Alcohol 40-6-391(a)(2) & (3)  
Other: None

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: No  
Implied Consent Law:  
Arrest Required (Yes/No): Yes 40-5-55  
Implied Consent Law Applies to  
Drugs (Yes/No): Yes 40-5-55(a)  
Refusal to Submit to Chemical Test  
Admitted into Evidence: Yes (Criminal Cases) 40-6-392(c)  
Other Information: None

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood: Yes 40-5-55  
Urine: Yes 40-5-55  
Other: Or "other bodily substance" (The code does not specify the substances but only uses general language.) 40-5-55

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No  
Anti-Plea Bargaining Statute (Yes/No): No  
Pre-Sentencing Investigation Law (PSI)  
(Yes/No): No (Note: Mandatory only in felony cases.)

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test:  
Criminal Sanctions (Fine/Jail): N/A  
Administrative Licensing Action  
(Susp/Rev): N/A  
Other: None  
  
Refusal to Take Implied Consent  
Chemical Test  
Criminal Sanction (Fine/Jail): None  
Administrative Licensing Action  
(Susp/Rev): Susp for 6 mos 40-5-55 & 40-5-63(b) Mandatory

STATE - Georgia

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Other: Special Note: If the refusal is in connection with a DWI- Homicide charge. The susp period is a mandatory 12 mos; See 40-5-63(b)

Sanctions Following a Conviction for a DWI Offense:

**Criminal Sanctions:**

Imprisonment: 1st off (Misd)-10 dys-1 yr; 2nd off (w/n 5 yrs)-90 dys-1 yr; 3rd and subsequent offs (w/n 5 yrs) (Misd)-120 dys-1 yr; 40-6-391(c)  
Mandatory Minimum Term: 2nd off (Misd)-48 hrs; 3rd and subsequent offs (w/n 5 yrs) (Misd)-10 dys; (Note: See Community Service)

Fine:  
Amount (\$ Range): 1st off (Misd)-\$300-1,000; 2nd off (w/n 5 yrs) (Misd)-\$600-1,000; 3rd and subsequent offs (all w/n 5 yrs)(Misd)-\$1,000

Mandatory Minimum Fine (\$): None

**Other Penalties:**

Community Service: 2nd off (Misd.)-80 hrs; 3rd and subsequent offs (all w/n 5 yrs)(Misd.)-30 dys (Alternate sanction to the 48 hr/10 day minimum imprisonment terms)

Restitution (eg Victim's Fund) None

Other: None

**Administrative Licensing Actions:**

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: None

UVC Type of Provisions: None

Other: None

Post DWI Conviction Licensing Action:

Type of Licensing Action

(Susp/Rev): 1st off-Susp; 2nd off -Susp; 3rd and subsequent offs (w/n 5 yrs)-Rev 40-5-70(b)(1)(A)(B)(C), 40-5-58 & 40-5-62

Term of License Withdrawal

(Days, Months, Years, etc.): 1st off-1 yr; 2nd offs-2 yrs; 3rd and subsequent offs (all w/n 5 yrs)-5 yrs

Mandatory Minimum Term of Withdrawal:

1st off-License may be restored after 120 dys of the susp period have passed<sup>1</sup>; 2nd off (w/n 5 yrs) License may be restored after 120 dys have passed<sup>2</sup>; 3rd and subsequent offs (w/n 5 yrs)-5 yrs

<sup>1</sup>Under 40-5-71 a 1st offender may be issued a hardship license; also, under 40-6-391.1 a license susp may be avoided on a 1st DWI off if the defendant pleads nolo contendere to such off; thus, there is really no "mandatory" susp period for a 1st off.

<sup>2</sup>See rehabilitation section

STATE - Georgia

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Other:

Rehabilitation:

Alcohol Education: Yes, for 1st and 2nd DWI offenders, the license may be restored before the end of the susp period as indicated provided the defendant completes an approved alcohol or drug program; See 40-5-70.

Alcohol Treatment: Yes

Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe): None

Vehicle Impoundment/Confiscation:

Authorized by Specific  
Statutory Authority: No (Note: Under Code of Ga. §85-203, only certain illegally parked vehs may be impounded.)

Terms Upon Which Vehicle  
Will Be Released: None

Other: None

Miscellaneous Sanctions  
Not Included Elsewhere: None

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes 1) Veh homicide where there is no "Malice aforethought" via a violation of §§40-6-271, 40-6-390 & 40-6-391 (veh homicide in the first degree) -<sup>1</sup>

<sup>1</sup>2) Veh homicide where the death is caused "without an intention to do so" (Veh Homicide in the Second Degree); 3) Veh Homicide where the defendant is an habitual violator, his/her license has been revoked, and there is no "Malice Aforethought" (Veh Homicide in the First Degree) 40-6-393



STATE - Georgia

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Sanctions:

Criminal Sanction:

Imprisonment (Term): 1) 2-15 yrs<sup>1</sup> 2) Not more than 12 mos<sup>2</sup> 3) 5 yrs<sup>3</sup>  
Mandatory Minimum Term: 3) 1 yr<sup>3</sup>  
Fine (\$ Range): 2) Not more than \$1,000<sup>2</sup>  
Mandatory Minimum Fine: None

Administrative Licensing Action:

Licensing Authorized and Type of Action: 1) Susp<sup>1</sup> 2) Susp<sup>2</sup> 3) Susp<sup>3</sup>  
Length of Term of Licensing Withdrawal: 1) 3 yrs<sup>1</sup> 2) 3 yrs<sup>2</sup> 3) 3 yrs<sup>3</sup>, 40-5-64(f)  
Mandatory Action--Minimum Length of License Withdrawal: 1) 3 yrs<sup>1</sup> 2) 3 yrs<sup>2</sup> 3) 3 yrs<sup>3</sup>  
Other: None

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): 2 dys-6 mos (Misd)  
Mandatory Minimum Term of Imprisonment: None  
Fine (\$ Range): Not more than \$500  
Mandatory Minimum Fine: None

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev): Susp/Rev 40-5-121(b)  
Length of Term of License Withdrawal Action: Original susp or rev period is extended 1 yr  
Mandatory Term of License Withdrawal Action: Original susp or rev period is extended 1 yr

<sup>1</sup>Veh homicide where there is no "Malice aforethought" via a violation of §§40-6-271, 40-6-390 and 40-6-391 (alcohol offs)

<sup>2</sup>Veh homicide where the death is caused "without an intention to do so" (Veh Homicide in the Second Degree)

<sup>3</sup>Veh Homicide where the defendant is an habitual violator, his/her license has been revoked, and there is no "Malice Aforethought" (Veh Homicide in the First Degree) 40-6-393

STATE - Georgia

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Habitual Offender Laws:

State Has Such Law (Yes/No):	Yes 40-5-58(c) (Note: Previous code citation was 68B-308)
Grounds for Being Declared an Habitual Offender:	3 serious violations (w/n 5 yrs) alone or a combination of 15 serious/minor moving violations within a 5 yr period
Term of License Rev While Under Habitual Offender Status:	5-yr rev period 40-5-62(a)(1) (Note: A probationary restricted hardship license may be issued after two yrs of the rev period has passed; 40-5-58(c))
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	Felony 40-5-58(c)
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	1-5 yrs
Mandatory Minimum Term of Imprisonment:	None
Fine (\$ Range):	Not less than \$750
Mandatory Minimum Fine (\$):	None
Licensing Actions (Specify):	None

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No):	Yes
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes 21.205
Vehicle Passengers:	Yes 21.205
Pedestrian:	Yes 21.205

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase:	21* (Year Eff: 1986) §5A-510(a)(1) & (12)
Minimum Age (Years) Possession:	21* (Exceptions: Medical purposes; religious ceremonies, and home use with parental consent)
Minimum Age (Years) Consumption:	N/A

\*The minimum sale/purchase/possession age will be (1) 19 until 9/30/85; (2) 20 from 9/30/85 until 9/30/86; and (3) 21 on 9/30/86

STATE -- Georgia

Other State Laws Related To Alcohol Use  
And Driving: (continued)

**Dram Shop Laws and Related Legal Actions:**

State Has a Dram Shop Law (Yes/No): **No**

"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation):

**No** (For a recent case, see *Nunn v. Comidas Exquisitos, Inc.*, 305 S.E.2d 487 (Ga. App. 1983); however, since social hosts may be held liable, this case may no longer be relevant. See case under Dram Shop Actions-Social Hosts below.)

Dram Shop Actions-Social Hosts:

**Yes** See *Sutter v. Hutchings*, 327 S.E.2d 716 (1985)

Other:

**None**

**Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

Type of Criminal Action:

**Misd**

Term of Imprisonment:

**Not more than 12 mos**

Fine (\$ Range):

**Not more than \$1,000 §§5A-509, 5A-9901 & 27-2506**

**Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

License to Serve Alcoholic Beverages

Withdrawn (Yes/No):

**Susp or cancellation**

Length of Term of License Withdrawal: **2 yrs**

**Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:**

Type of Criminal Action:

1st off- **Misd** Subsequent offs- **Misd** of a high and aggravated nature.

Term of Imprisonment:

For 1st and subsequent off- **Not more than 12 mos**

Fine (\$ Range):

1st off- **Not more than \$1,000; Subsequent off-** **Not more than \$5,000 §§5A-510, 5A-9901.1, & 27-2506**

**Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:**

STATE - Georgia

Other State Laws Related To Alcohol Use  
And Driving: (continued)

License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes, susp or cancellation
Length of Term License Withdrawal:	2 yrs
Anti-Happy Hour Laws/Regulations:	No
Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:	
Open Container Law (Yes/No):	No
Anti-Consumption Law (Yes/No):	No

STATE:  
General Comments:

HAWAII  
See Hawaii Revised Statutes

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	0.10% §291-4(a)(2)
Presumption (BAC Level):	None
Types of Drugs/Drugs and Alcohol:	Any Drug §291-7
Other:	0.10% or more is considered competent evidence of driving under the influence if the chemical test was taken within 3 hrs of a DWI violation. §291-5(a)

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	No
Implied Consent Law:	
Arrest Required (Yes/No):	Yes §286-151
Implied Consent Law Applies to Drugs (Yes/No):	No
Refusal to Submit Chemical Test Admitted into Evidence:	No (Specifically prohibited in both criminal and civil cases; see §286-159.)
Other Information:	Special Note: It appears that either a blood or breath test may be given a driver without their consent in order to obtain evidence of their intoxication if they are involved in an accident resulting in injury to or death to another person; §286-163

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes
Urine:	No
Other:	None

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes 2nd & 3rd DWI offs §291-4(c)

Sanctions for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	N/A
Administrative Licensing Action (Susp/Rev):	N/A
Other:	N/A

STATE - Hawaii

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail):	No
Administrative Licensing Action (Susp/Rev):	Rev 1st refusal 12 mos 2nd and sub. refusals (w/n 5 yrs) -2 to 5 years (§286-155) (Mandatory)
Other:	Persons penalized under §286-155 must under go an assessment for alcohol dependence and the need for treatment (see §286-155(d))

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:	<u>1st off-48 hrs<sup>1</sup>; 2nd off (w/n 5 yrs of a previous conviction)-48 hrs of cons imprisonment; 3rd off (w/n 5 yrs of two previous convictions) §291-4 - 10-180 dys</u>
Mandatory Minimum Term:	<u>2nd off (w/5 yrs of a previous conviction)-48 cons hrs</u>
Fine:	
Amount (\$ Range):	<u>1st off-\$150-1,000<sup>1</sup>; 2nd off (w/n 5 yrs of a previous conviction)-\$500-1,000<sup>1</sup>; 3rd off (w/n 5 yrs of two previous convictions)- \$500-1,000<sup>1</sup></u>
Mandatory Minimum Fine (\$):	None
Other Penalties:	
Community Service:	<u>1st off-72 hrs<sup>1</sup>; 2nd off (w/n 5 yrs of a previous conviction)-10 dys (As an alternative to imprisonment)</u>
Restitution (eg Victim's Fund)	None
Other:	None

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:	None
UVC Type of Provisions:	None
Other:	None

Post DWI Conviction Licensing Action:

Type of Licensing Action (Susp/Rev):	<u>1st off-Susp; 2nd off-Susp; 3rd off-Rev §291-4</u>
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<sup>1</sup>The Court must sentence a person convicted of a 1st DWI off to at least one of these sanction, but it has the authority to sentence such person to more than one such sanction.

STATE - Hawaii

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Term of License Withdrawal  
(Days, Months, Years, etc.): 1st off-90 dys; 2nd off-1 yr; 3rd  
off-1-5 yrs

Mandatory Minimum Term of  
Withdrawal: 1st off-30 dys with a restricted license for  
60 dys; 2nd off-1 yr

Other:

Rehabilitation:

Alcohol Education: 1st off - A mandatory 14 hr alcohol abuse  
education/counseling program.

Alcohol Treatment:  
Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe): None

Vehicle Impoundment/Confiscation:

Authorized by Specific  
Statutory Authority: No

Terms Upon Which Vehicle  
Will Be Released: None

Other: None

Miscellaneous Sanctions  
Not Included Elsewhere: None

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes--2 types of offs 1) Death caused by  
negligent veh operation (homicide in the first  
degree) a C1 C felony 2) Death caused by simple  
negligence--homicide in the second degree) a misd

Sanctions:

Criminal Sanction:

Imprisonment (Term): Death caused by negligent veh operation  
(homicide in the 1st degree) a C1 C felony--Not  
more than 5 yrs; Death caused by simple  
negligence--homicide in the 2nd degree) a  
misd--Not more than 1 yr (Hawaii Rev. Stat.  
§§707-703 and 707-704)

Mandatory Minimum Term: To be determined by the paroling authority via  
special procedures (Hawaii Rev. Stat. §§707-703  
and 707-704)

STATE - Hawaii

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Fine (\$ Range): Death caused by negligent veh operation (homicide in the 1st degree) a C1 C felony Not more than \$5,000 Death caused by simple negligence--homicide in the 2nd degree) a misd Not more than \$1,000 (Hawaii Rev. Stat. §§707-703 and 707-704)

Mandatory Minimum Fine: None  
Administrative Licensing Action: Licensing Authorized and Type of Action: Death caused by negligent veh operation (homicide in the first degree) a C1 C felony-Rev<sup>1</sup>; Death caused by simple negligence--homicide in the second degree) a misd-Rev<sup>1</sup>

Length of Term of Licensing Withdrawal: Death caused by negligent veh operation (homicide in the first degree) a C1 C felony-Not less than 1 yr; Death caused by simple negligence--homicide in the second degree) a misd-Not less than 1 yr

Mandatory Action--Minimum Length of License Withdrawal: None  
Other: None

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense<sup>2</sup>:  
Sanction:

Criminal:  
Imprisonment (Term): 3 con days - 30 days (may be extended to 60 days for "good cause")  
Mandatory Minimum Term of Imprisonment: 3 con days appears to be mandatory  
Fine (\$ Range): \$250-1,000  
Mandatory Minimum Fine: None

<sup>1</sup>Mandatory rev in the statute applies to a conviction of the driver for manslaughter; the statute does not state in a definitive manner whether veh homicide is manslaughter; see §286-124 and 286-126.

<sup>2</sup>See H.B. 329, Section 1, as enacted in 1985



STATE - Hawaii

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev):	Susp or rev
Length of Term of License Withdrawal Action:	An additional period of one (1) year <sup>1</sup>
Mandatory Term of License Withdrawal Action:	The above susp. or rev. appears to be mandatory

Habitual Offender Laws:

State Has Such Law (Yes/No):	No
Grounds for Being Declared an Habitual Offender:	None
Term of License Rev While Under Habitual Offender Status:	None
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	None

Sanctions Following a Conviction of Driving While on Habitual Offender Status:

Imprisonment (Term):	None
Mandatory Minimum Term of Imprisonment:	None
Fine (\$ Range):	None
Mandatory Minimum Fine (\$):	None
Licensing Actions (Specify):	None

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No):	Yes	(Hawaii Rev. Stat. §841-3)
BAC Chemical Test Is Given to the the Following Persons:		
Driver:	Yes	
Vehicle Passengers:	Yes	
Pedestrian:	Yes	

<sup>1</sup>The suspension or revocation period commences upon the person's release from imprisonment.

STATE - Hawaii

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Laws Establishing the Minimum Ages  
Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 18 (yr eff; 1972) §§281-1:281-78 &  
281-101.5

Minimum Age (Years) Possession: 18 (Law applies to motor vehs and public  
places; employment situations and to religious  
ceremonies excluded.) §§281-1: 281-78 &  
281-101.5

Minimum Age (Years) Consumption: N/A (Liquor cannot be consumed by anyone on  
a public highway or a public sidewalk.)

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): No

"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation): Yes, Ono v. Applegate: 612 P.2d 533 (1980)

Dram Shop Actions--Social Hosts: No (No cases)

Other: None

Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

Type of Criminal Action: Misd

Term of Imprisonment: Not more than 6 mos (Hawaii Rev. Stat.,  
§§281-78, 281-91 and 281-102)

Fine (\$ Range): Not more than \$500

Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Susp or rev

Length of Term of License Withdrawal: Not specified in the statute (Note: A civil  
penalty of not more than \$500 may be assessed in  
lieu of license susp or rev.)

Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:

Type of Criminal Action: Misd

STATE - Hawaii

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Term of Imprisonment: Not more than 6 mos  
Fine (\$ Range): Not more than \$500 (Hawaii Rev. Stat.  
§§281-78, 281-91, and 281-102 & (Ch. 712)

**Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Yes, susp or rev  
Length of Term License Withdrawal: Not specified in the statute (Note: A civil  
penalty of not more than \$500 may be assessed in  
lieu of license susp or rev.) (Hawaii Rev.  
Stat. §§281-78, 281-91, and 281-10 & Ch. 712)

Anti-Happy Hour Laws/Regulations: No

**Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:**

Open Container Law (Yes/No): Yes (Hawaii Rev. Stat. §§281-78, 281-91,  
and 281-10 & (CH.712) §291-3.3  
Anti-Consumption Law (Yes/No): Yes- Driver and passenger (The law states  
that liquor shall not "Be consumed on any public  
highway or any public sidewalk")

STATE:  
General Comments:

IDAHO  
See General Laws of Idaho Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): 0.10% §18-8004(1)  
Presumption (BAC Level): >0.08% §18-6901  
Types of Drugs/Drugs and Alcohol: (1) Any Drug and (2) a Combination of Any  
Drug and Alcohol §§18-8004(1) & 18-8004(5)  
Other: No

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: No  
Implied Consent Law:  
Arrest Required (Yes/No): No  
Implied Consent Law Applies to  
Drugs (Yes/No): Yes 18-8004(1)  
Refusal to Submit Chemical Test  
Admitted into Evidence: Yes (Criminal Cases)  
State v. Bock, 328 P.2d 1065 (1958)  
Other Information: The police need only reasonable grounds of an  
alcohol off before the implied consent law is  
applicable; See §18-8002(1); However, see  
§18-8002(4)(b) which appears to indicate that  
probable cause is needed

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood: Yes<sup>1</sup>  
Urine: Yes  
Other: Other bodily substance<sup>1</sup>; e.g., saliva

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No  
Anti-Plea Bargaining Statute (Yes/No): No  
Pre-Sentencing Investigation Law (PSI)  
(Yes/No): Yes 18-8005(5)

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test:  
Criminal Sanctions (Fine/Jail): N/A  
Administrative Licensing Action  
(Susp/Rev): N/A  
Other: N/A

<sup>1</sup>The law refers to an evidentiary test for BAC levels without specifying the bodily substance to be tested; See §18-800201.

STATE -- Idaho

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	120 dys susp (Mandatory) §18-8002(4)(b)
Other:	None

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:	<u>1st off--Not more than 6 mos; 2nd off (w/n 5 yrs) misdemeanor--10 dys to 1 yr; 3rd off (w/n 5 yrs) Felony--Not more than 5 years; Aggravated DWI where there is bodily harm/disfigurement<sup>2</sup>--Not more than 5 years</u>
Mandatory Minimum Term:	<u>1st off Misd--None; 2nd off (w/n 5 yrs) Misd--10 dys<sup>1</sup>; 3rd off (w/n 5 yrs) Felony--30 dys<sup>1</sup>; Aggravated DWI off where there is bodily harm/disfigurement<sup>2</sup>--30 dys</u>

Fine:

Amount (\$ Range):	<u>1st off Misd--Not more than \$1,000; 2nd off (w/n 5 yrs) Misd--Not more than \$2,000; 3rd off (w/n 5 yrs) Felony--Not more than \$5,000; Aggravated DWI off where there is bodily harm/disfigurement<sup>2</sup>--Not more than \$5,000</u>
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Mandatory Minimum Fine (\$):	None
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Other Penalties:

Community Service:	None
Restitution (eg Victim's Fund)	<u>Aggravated DWI off where there is bodily harm/disfigurement<sup>2</sup>--Yes (§18-8006(1)(e))</u>
Other:	None

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:	None
UVC Type of Provisions:	Yes §49-330
Other:	None

<sup>1</sup>See State v. McCoy, 468 P.2d 247 (1971), in which the Idaho Supreme Court voided a statute requiring mandatory sanctions.

<sup>2</sup>If the offender is a minor (a person under 18 years old), their license is suspended or denied for either an additional 1 year or until the person reaches 18 which ever period is longer or following the end of any period of susp or rev ; See § 18-8005(7)

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Post DWI Conviction Licensing Action:

Type of Licensing Action

(Susp/Rev):

1st off-Susp<sup>3</sup>; 2nd off-Susp<sup>3</sup>; 3rd off-Susp<sup>3</sup>;  
Aggravated DWI off §§18-8005 & 18-8006-Susp

Term of License Withdrawal

(Days, Months, Years, etc.):

1st off-Not more than 180 dys;  
2nd off- 6 mos-1 year after release from confinement; 3rd off- 1-5 years after release fr confinement; Aggravated DWI off - 1-5 years after release from confinement §§18-8005 & 18-8006

Mandatory Minimum Term of

Withdrawal:

1st off -None<sup>1</sup>; 2nd off-30 dys after release from confinement<sup>2</sup>; 3rd off-1 year after release from confinement; Aggravated DWI off-1 year after release from confinement §§18-8005 & 18-8006

Other:

Rehabilitation:

Alcohol Education:

None

Alcohol Treatment:

A DWI offender may be referred for participation in retraining and/or rehabilitation program by a driver improvement counselor, a judge, a district court magistrate, or the hearing officer of the Department of Law Enforcement

Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe):

None

<sup>1</sup>A Restricted license may be for reasons of employment.

<sup>2</sup>After the 30 day mandatory period, a restricted license may be issued for reasons of employment for the balance of the 6 mo minimum susp period.

<sup>3</sup>If the offender is a minor (a person under 18 years old), their license is suspended or denied for either an additional 1 year or until the person reaches 18 which ever period is longer or following the end of any period of susp or rev ; See § 18-8005(7)

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Vehicle Impoundment/Confiscation:  
Authorized by Specific  
Statutory Authority: No  
Terms Upon Which Vehicle  
Will Be Released: None  
Other: None  
Miscellaneous Sanctions  
Not Included Elsewhere: None

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes--2 types of offs (1) Veh  
manslaughter--death as a result either (1) of an  
unlawful act not amounting to a felony where  
gross negligence is involved; or of a DWI off;  
(2) Death as a result of an unlawful act not  
amounting to a felony where there is no gross  
negligence. §18-4006(3)

Sanctions:

Criminal Sanction:

Imprisonment (Term): (1) Veh manslaughter--death as a result of  
either gross negligence or of a DWI off--Not more  
than 7 years;  
(2) Death as a result of an unlawful act not  
amounting to gross negligence - Not more than  
1 year §18-4007(3)

Mandatory Minimum Term:

None

Fine (\$ Range):

(1) Veh manslaughter--death as a result either  
gross negligence or of a DWI off--Not more than  
\$7,000;

(2) Death as a result of an unlawful act not  
amounting to gross negligence - Not more than  
\$2,000

Mandatory Minimum Fine:

None

Administrative Licensing Action:

Licensing Authorized and

Type of Action:

(1) Veh manslaughter--death as a result either  
gross negligence or a DWI offs;

(2) Death as a result of an unlawful act not  
amounting to gross negligence - Rev §49-329

Length of Term of

Licensing Withdrawal:

(1) Veh manslaughter--death as a result either  
gross negligence is involved;

(2) Death as a result of an unlawful act not  
amounting to gross negligence - Not less than  
1 yr §49-331

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Mandatory Action--Minimum Length of License Withdrawal:	(1) <u>Veh manslaughter</u> --death as a result either gross negligence or of a DWI offs; (2) Death as a result of an unlawful act not amounting to gross negligence - 1 year
Other:	Note: The law specifically states that a temporary restricted license cannot be issued following revs based on veh <u>manslaughter</u> .
Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:	
Sanction:	
Criminal:	
Imprisonment (Term):	<u>1st off Misd</u> -Not less than 2 dys to 6 mos; <u>2nd off Misd (w/n 5 years)</u> -20 dys to 1 yr (w/n 12 mos); <u>3rd and subsequent offs (w/n 5 years)</u> (felony)-Not more than 3 yrs, 18-8001
Mandatory Minimum Term of Imprisonment:	<u>1st off Misd</u> -2 dys; <u>2nd off Misd (w/n 5 years)</u> -20 dys; <u>3rd and subsequent offs (w/n 5 years)</u> (felony)-30 dys
Fine (\$ Range):	<u>1st off Misd</u> -Not more than \$500; <u>2nd off Misd (w/n 5 years)</u> -Not more than \$1,000; <u>3rd and subsequent offs (w/n 5 years)</u> (felony)-Not more than \$3,000
Mandatory Minimum Fine:	None
	Special Note: If a person is convicted of an alcohol driving off and such person had no driving privileges at the time of arrest, the penalties imposed under §18-8001 are in addition to any penalties imposed for an alcohol driving off conviction.
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	<u>1st off Misd</u> -Susp; <u>2nd off Misd (w/n 5 years)</u> -Susp; <u>3rd and subsequent offs (w/n 5 years)</u> (felony) 18-8001 - Rev §49-337
Length of Term of License Withdrawal Action:	<u>1st Off Misd</u> -License susp for an additional 6 mos <sup>1</sup> ; <u>2nd Off Misd (w/n 5 yrs)</u> -License susp for an additional 1 yr; <u>3rd and subsequent offs (w/n 5 yrs)</u> (felony)-License revoked for an additional 3 yrs, 18-8001
Mandatory Term of License Withdrawal Action:	<u>2nd off Misd (w/n 5 years)</u> additional-1 yr; <u>3rd and subsequent offs (w/n 5 years)</u> (felony)-an additional 3 years, 18-8001

<sup>1</sup>Restricted licenses available for employment reasons or family health needs.



STATE - Idaho

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Habitual Offender Laws:

State Has Such Law (Yes/No):	No
Grounds for Being Declared an Habitual Offender:	N/A
Term of License Rev While Under Habitual Offender Status:	N/A
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	N/A
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	N/A
Mandatory Minimum Term of Imprisonment:	N/A
Fine (\$ Range):	N/A
Mandatory Minimum Fine (\$):	N/A
Licensing Actions (Specify):	N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No):	Yes
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes §49-1016
Vehicle Passengers:	No
Pedestrian:	Yes §49-1016

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase:	19	§23-312	(Year Eff: 1972)
Minimum Age (Years) Possession:	19	§23-949	
Minimum Age (Years) Consumption:	19	§23-949	

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No):	No
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation):	Yes, Alegria v. Payonk, 619 P.2nd 135 (1980)
Dram Shop Actions--Social Hosts:	No (No cases)
Other:	No

STATE - Idaho

Other State Laws Related To Alcohol Use  
And Driving: (continued)

**Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

Type of Criminal Action: Misd §23-605  
Term of Imprisonment: 3 mos-1 yr  
Fine (\$ Range): \$300-1,000

**Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Yes, but may pay \$5,000 for 1st off in lieu  
of susp.  
Length of Term of License Withdrawal: Statute has no stated time period.

**Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:**

Type of Criminal Action: Misd for 1st off; Felony-2nd and  
subsequent §23-603  
Term of Imprisonment: Misd for 1st off - 3 mos to 1 year;  
Felony 2nd and subsequent 5 years  
Fine (\$ Range): Misd for 1st off - \$300-1,000;  
Felony-2nd and subsequent \$5,000

**Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Yes but may pay \$5,000 for 1st off in lieu  
of susp  
Length of Term License Withdrawal: Indeterminate (statute has no specific time  
period) §23-933

Anti-Happy Hour Laws/Regulations: No

**Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:**

Open Container Law (Yes/No): Yes §23-933  
Anti-Consumption Law (Yes/No): No

STATE:  
General Comments:

ILLINOIS  
See Smith/Hurd Illinois Annot. Statutes

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	0.10% Ch. 95 1/2 §11-501(a)(1)
Presumption (BAC Level):	0.10% Ch. 95 1/2 §11-501.2(b)(3)
Types of Drugs/Drugs and Alcohol:	(1) Any Drug and (2) a Combination of Any Drug and Alcohol See 95 1/2 §11-501(a)(3) & (4)
Other:	None

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	No
Implied Consent Law:	
Arrest Required (Yes/No):	Yes Ch. 95 1/2 §11-501.1
Implied Consent Law Applies to Drugs (Yes/No):	Yes 95 1/2 11-501.1(a)
Refusal to Submit to Chemical Test Admitted into Evidence:	Yes (Criminal Cases) 95 1/2 11-501.2(c)
Other Information:	None

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes Ch. 92 1/2 §11-501.1
Urine:	Yes Ch. 95 1/2 §11-501.1
Other:	None

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No <sup>1</sup>
Pre-Sentencing Investigation Law (PSI) (Yes/No):	No

<sup>1</sup>Note: A defendant cannot obtain deferred judgement and be placed on supervision if within 5 years they have either (1) been convicted of DWI, (2) pleaded guilty to or by stipulated facts supporting the conviction of a DWI off charge, or (3) have received supervision for a prior DWI off; see Ch. 38 secs. 1005-6-1(c) and 1005-6-1(d)).

STATE - Illinois

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test:

Criminal Sanctions (Fine/Jail): N/A  
Administrative Licensing Action  
(Susp/Rev): N/A  
Other: None

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail): None  
Administrative Licensing Action  
(Susp/Rev): 1st refusal--Susp for 6 mos;  
subsequent refusals--Susp for 1 yr; (90  
days mandatory; a restricted license may be  
issued after this 90 day period.) Ch. 951/2  
§§6-206(c)(3), 206.1, 208.1 and 11-501.1  
Other: None

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment: 1st off--Less than 1 yr; 2nd and subsequent  
offs (w/n 5 yrs)--Less than 1 yr; Ch. 38  
§1005-8-3(a)(1) Note: A DWI off is a Cl A  
Misd; see Ch. 951/2 §11-501.  
Mandatory Minimum Term: 2nd and subsequent offs (w/n 5 yrs)--48 cons  
hrs (Ch 38 secs. 1005-5-3(c)(3) &  
1005-6-1(d)(Ref: P.A 83-204 and PA. 83-207)  
Fine:  
Amount (\$ Range): 1st off--Not more than \$1,000; 2nd and  
subsequent offs (w/n 5 yrs)--Not more than  
\$1,000; Ch 38 §1005-9-1(or 2)  
Mandatory Minimum Fine (\$): None  
Other Penalties:  
Community Service: 2nd and subsequent offs (w/n 5 yrs)--yes, See Ch  
38 1005-5-6, a minimum of 10 dys  
(Alternative to the term of 48 cons hrs of  
mandatory imprisonment)

Special Note No. 1: Driving a school bus while DWI while the bus is occupied by school children is a Cl 4 Felony; imprisonment from 1 to 3 yrs and/or a fine of not more than \$10,000; restitution may be required; see Ch. 951/2 §11-501(d) and Ch. 38 §§1005-8-1(a)(7) and 1005-9-1(a)(1).

Special Note No. 2: Causing a DWI related accident which results in either great bodily harm or permanent disability or disfigurement is also a Cl 4 felony; imprisonment from 1 to 3 years and/or a fine of not less than \$10,000; see Ch 95 1/2 §11-501(e) and Ch 38 §1005-8-1(a)(7) and §1005-9-1(a)(1).

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Restitution (eg Victim's Fund) Yes, for all offs; see Ch. 38 §§  
1005-5-31(b)(7), 1005-6-3.1(c)(9) and 1005-5-6  
Other: None

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: Yes 1st viol.-3 mos. susp.\*(not mand.)  
subsequent viol.-1 yr. susp. (90 dys. mand.);  
a restricted lic. may be issued after this 90 dy.  
period.) Ch. 951/2 6-206, 6-206.1 & 11-501.1  
\*Note: A judicial driving permit may be issued  
after the first 30 days of the susp. period have  
passed; however, the lic. agency, it appears,  
can issue a restricted lic. for any part or all  
of this susp. period.

UVC Type of Provisions: Yes  
Other: None

Post DWI Conviction Licensing Action:

Type of Licensing Action  
(Susp/Rev): For all offs - Rev CH 951/2 §§6-205, 6-208  
and 11-501

Term of License Withdrawal  
(Days, Months, Years, etc.): For all offs - Not less than 1 yr (Note: A  
hardship license may be issued)

Mandatory Minimum Term of  
Withdrawal: None

Other:

Rehabilitation:  
Alcohol Education: None  
Alcohol Treatment: None  
Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe): None

Vehicle Impoundment/Confiscation:

Authorized by Specific  
Statutory Authority: No  
Terms Upon Which Vehicle  
Will Be Released: None  
Other: None

Miscellaneous Sanctions  
Not Included Elsewhere: Special Note: Under Ch 38 §§1005-6-1 &  
1005-6-3.1 a DWI offender  
may be placed in a Court supervised diversion  
program; however, he cannot be placed if the  
offender has had a prev. DWI conviction or have  
been in such a diversion program within a 5-yr  
period of the charged off.

STATE - Illinois

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes, C) 4 felony - Reckless homicide  
(Note: Death must be the result of reckless  
action of the accused driver)

Sanctions:

Criminal Sanction:

Imprisonment (Term): 1-3 yrs  
Mandatory Minimum Term: None  
Fine (\$ Range): Not more than \$10,000  
Mandatory Minimum Fine: None

Administrative Licensing Action:

Licensing Authorized and  
Type of Action: Rev  
Length of Term of  
Licensing Withdrawal: 1 yr  
Mandatory Action—Minimum  
Length of License  
Withdrawal: 1 yr (Note: A restricted license may be  
issued.)  
Other: None

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): 1st off-C1 A misdemeanor-less than 1 yr;  
Ch.38 §1005-8-3(a)(1), & Ch 95 1/2 §6-303  
subsequent off-C1 4 felony-1-3 yrs Ch 95 1/2  
6-303(d) & Ch 38 1005-8-1(a)(7)  
Mandatory Minimum Term  
of Imprisonment: 7 cons dys-All offenses (Note:  
Alternatively, the defendant may be sentenced to  
30 dys of community service.) Ch. 38  
§1005-5-3(c)(3) & Ch 95 1/2 6-303(c)  
Fine (\$ Range): 1st off-Not more than \$1,000; Sub off<sup>1</sup> not  
more than \$10,000 Ch 38 1005-9-1(a)(1) & (2)  
Mandatory Minimum Fine: None

Administrative Licensing Actions:

Type of Licensing Action  
(Susp/Rev): Susp or rev  
Length of Term of License

<sup>1</sup>Provided the original rev. or susp. was a DWI off. conviction.

STATE - Illinois

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Withdrawal Action:	If the original charge is based on a susp, the susp is extended an additional period of time equal to that if the original susp. If the original charge is based on a rev, the rev is extended 1 yr.
Mandatory Term of License Withdrawal Action:	Same as above
<b>Habitual Offender Laws:</b>	
State Has Such Law (Yes/No):	No
Grounds for Being Declared an Habitual Offender:	None
Term of License Rev While Under Habitual Offender Status:	None
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	None
<b>Sanctions Following a Conviction of Driving While on Habitual Offender Status:</b>	
Imprisonment (Term):	None
Mandatory Minimum Term of Imprisonment:	None
Fine (\$ Range):	None
Mandatory Minimum Fine (\$):	None
Licensing Actions (Specify):	None
<b>Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:</b>	
State Has Such a Law (Yes/No):	Yes Ch. 95 1/2 §1-501.1 Ch. 31 §10
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes
Vehicle Passengers:	No
Pedestrian:	Yes
<b>Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:</b>	
Minimum Age (Years) Sale/Purchase:	21 43-131 (yr eff:1980)

STATE - Illinois

Minimum Age (Years) Possession: 21 (Ch. 43, Para. 134a §6-20)  
Minimum Age (Years) Consumption: 21 (There are exemptions for religious ceremonies and for home use) (Ch. 43, Para. 134a §6-20)

Dram Shop Laws and Related Legal Actions:  
State Has a Dram Shop Law (Yes/No): Yes 43-135 (6-21 of the Liquor Control Act of 1934 as amended)<sup>1</sup>

"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation): Yes, Colligan v. Cousar, 38 Ill. App. 2d 392, 187 N.E. 2d 292 (1963)

Dram Shop Actions--Social Hosts: Possible (Note: The case law is divided on this issue at the intermediate appellate court level; the State supreme court has not decided the issue. See Heldt v. Brei, 55 N.E.2d 842 (1983) (against liability) and Lowe v. Rubin, 424 N.E.2d 710 (1981) (for liability)

Other: None

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:  
Type of Criminal Action: C1 B Misd 43-131  
Term of Imprisonment: Not more than 6 mos  
Fine (\$ Range): Not more than \$1,000 43-148

<sup>1</sup>Damages for personal injuries or to property are limited to \$30,000; loss of means of support is limited to \$40,000



STATE - Illinois

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:  
License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Yes, rev  
Length of Term of License Withdrawal: 1 yr

Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:  
Type of Criminal Action: C1 B Misd  
Term of Imprisonment: Not more than 6 mos  
Fine (\$ Range): Not more than \$1,000 43-149

Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:  
License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Yes, Rev 43-149  
Length of Term License Withdrawal: 1 yr

Anti-Happy Hour Laws/Regulations: No

Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:  
Open Container Law (Yes/No): Yes Ch. 95 1/2 §11-502  
Anti-Consumption Law (Yes/No): No

STATE:  
General Comments:

INDIANA  
See Burn's Indiana Statutes Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level)	0.10% (Ind. Code 9-11, CH. 2, Sec.1)
Presumption (BAC Level):	N/A
Types of Drugs/Drugs and Alcohol:	(1) Any Drug, (2) a Controlled Substance and (3) Any Combination of Alcohol and Drugs See IC9-11-1-5 & 9-11-2-2
Other:	0.10% BAC is also prima facie evidence of intoxication (Ind. Code 9-11, Ch. 1, Sec. &)

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	Yes
Implied Consent Law:	
Arrest Required (Yes/No):	No (See 9-11-4-2) (See also Clark v. State, 372 N.E.2d 185 (Ind. 1978 (where no arrest is required)
Implied Consent Law Applies to Drugs (Yes/No):	Yes IC9-11-4-1
Refusal to Submit to Chemical Test Admitted into Evidence:	Yes (Criminal & Civil Cases) IC9-11-4-3(d)
Other Information:	

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes
Urine:	Yes
Other:	Any other bodily substance IC9-11-4-1

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	No

Sanctions for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	N/A
Administrative Licensing Action (Susp/Rev):	N/A
Other:	None

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail):	No <sup>1</sup>
Administrative Licensing Action (Susp/Rev):	1-yr susp (may not be mandatory <sup>2</sup> in all cases <sup>2</sup> ) 9-11-4-9(a)
Other:	N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years,  
Etc.):

1. Illegal per se (C1 C misd) - Not more than 60 dys IC9-11-21, IC35-50-3-4; 2. Intoxicated off (C1 A misd) - Not more than 1 yr IC9-11-2-2, IC(-50-3-2); 3. Either 1 or 2 above if there has been a previous intoxicated off, (C1 D felony) - A fixed term of 2 yrs IC9-11-23; 4. Violation of either 1 or 2 above where there has been a serious injury, (C1 D felony) - A fixed term of 2 yrs IC9-11-2-4, IC35-50-2-7; 5. Violation of either 1 or 2 above where there has been a death (C1 C felony) - A fixed term of 5 yrs IC(9-11-2 et. seq. and IC35-50-2-6.

Mandatory Minimum Term:

1. Illegal per se off (C1 C misd) - None IC9-11-21; 2. Intoxicated off (C1 A misd) - None IC9-11-2-2; 3. Either 1 or 2 above if there has been a previous intoxicated off (C1 B felony) - 5 dys of which 48 hrs must be served consecutively IC9-11-23, IC9-11-3-4(a) and (b); 4. See Footnote No. 3; 5. See Footnote No. 4

<sup>1</sup>Refusal to submit to a implied consent test, where there has been an accident in which there has been a death or a serious bodily injury likely to cause death, is a class C in Fraction (a fine of not more than \$500); see 9-4-1-37.1 and 34-4-32-4(c). In addition, the court may suspend a persons license for not more than 1 yr; see 9-4-1-37.1

<sup>2</sup>However, if a court finds in the sentence order for a DWI Conviction that it is in the best interest of society, it may terminate all or any part of this suspension; see 9-11-3-1 as amended by Sec. 8 of .SB. 146 as enacted in 1985

<sup>3</sup>DWI sanctions apply to anyone over 16 yrs old; see IC31-6-2-1(6)(1)

<sup>4</sup>There is a mandatory imprisonment term of 5 dys (of which 48 hrs must be served cons or 10 dys of community service if the defendant has been convicted of a previous DWI off within a 5 yr period; see IC9-11-3-4.

Sanctions Following a Conviction for a DWI Offense:  
(continued)

**Fine:**  
**Amount (\$ Range):** 1. Illegal per se off (C1 C misd) - Not more than \$500 IC(-11-21); 2. Intoxicated off (C1 A misd) - Not more than \$5,000 IC(-11-2-2); 3. Either 1 or 2 above if there has been a previous intoxicated off (C1 b felony) - Not more than \$10,000 IC9-11-23; 4. Violation of either 1 or 2 above where there is serious injury (C1 D felony) - Not more than \$10,000 IC9-11-24; 5. Violation of either 1 or 2 above where there is a death (C1 C felony) - Not more than \$10,000 IC9-11-2-5  
**Mandatory Min. Fine (\$):** None

**Other Penalties:**  
**Community Service:** 3. Either illegal per se off (C1 C misd) or intoxicated off (C1 A misd) if there has been a previous intoxicated off (C1 B felony) - 10 dys as an alternative to imprisonment IC9-11-2-3  
**Restitution (eg Victim's Fund):** N/A  
**Other:** N/A

**Administrative Licensing Actions:**  
Pre-DWI Conviction Licensing Action:  
**Administrative Per Se Law:** Yes (for all offs) for 0.10% (prima facie evidence) BAC susp up to 180 dys or until the DWI charges have been disposed of which ever occurs first. IC9-11-4-9(b)  
**UVC Type of Provisions:** Yes  
**Other:** If DWI charges are deferred, a driver's license is to be suspended for at least 90 dys but not more than two (2) yrs. 30 dys are mandatory. IC16-13-6.1-15.1(6)

Post DWI Conviction Licensing Action:  
**Type of Licensing Action (Susp/Rev):** Sus - All off  
**Term of License Withdrawal (Days, Months, Years, etc.):** 1. Illegal per se off (C1 C misd) - 90 dys to 2 yrs; 2. Intoxicated off (C1 A misd) - 90 dys to 2 yrs; 3. Either 1 or 2 above if there has been a previous intoxicated off (C1 B felony) - 1 to 2 yrs; 4. Violation of either 1 or 2 above where there is serious injury (C1 D felony)- 1 to 2 yrs; 5. Violation of either 1 or 2 above where there is a death (C1 C felony) - 1 to 2 yrs; IC9-11-3-1, 9-11-3-3 and 9-11-2-1, -2-2, -2-3, -2-4 & -2-5

STATE - Indiana

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Mandatory Minimum Term of

Withdrawal:

1. Illegal per se off (C1 C misd) -30 dys<sup>1</sup>;
  2. Intoxicated off (C1 A misd) - 30 dys; 3.
- Either 1 or 2 above if there has been a previous intoxicated off (C1 B felony) - 1 yr; 4. Violation of either 1 or 2 above where there is serious injury (C1 D felony) - 1 yr; 5. Violation of either 1 or 2 above where there is a death (C1 C felony) - 1 yr;

Other:

Rehabilitation:

Alcohol Education: Yes<sup>2</sup>  
Alcohol Treatment: Yes<sup>2</sup>  
Alcohol Education/  
Treatment as as Altern-  
ative to Criminal/  
Licensing Actions  
(Describe): Yes<sup>2</sup>

Vehicle Impoundment/Confiscation:

Authorized by Specific  
Statutory Authority: No  
Terms Upon Which Vehicle  
Will Be Released: N/A  
Other: N/A  
Miscellaneous Sanctions Not  
Included Elsewhere: None

Other Criminal Actions Related to Alcohol  
Use and Driving

Homicide by Vehicle:

State Has Such Law/Type of Offense: No

<sup>1</sup>A restricted license may be issued after the 30 day period. If a person does not have a previous driving while intoxicated conviction or has not refused to submit to a chemical test, they may be granted probationary restricted driving privileges for 180 days after the mandatory susp. period; see 9-110301(b), (c) & (d).

<sup>2</sup>For a first DWI off, the defendant may, as a condition of probation, be evaluated and treated for alcohol-related problems. The law does not specifically extend such evaluation and treatment to subsequent DWI offenders. In addition, for any misd. in which alcohol abuse is a factor, the Court may take judicial notice that an alcohol training/rehabilitation program may reduce antisocial behavior. If a defendant satisfactorily completes such a program the charges against him/her shall be dismissed; however, licensing susps. still apply. A defendant is eligible to participate only once in this type of program.

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Sanctions:

Criminal Sanction:

Imprisonment (Term): N/A  
Mandatory Minimum Term: N/A  
Fine (\$ Range): N/A  
Mandatory Minimum Fine: N/A

Administrative Licensing Action:

Licensing Authorized and Type of Action: N/A<sup>1</sup>  
Length of Term of Licensing Withdrawal: N/A  
Mandatory Action—Minimum Length of License Withdrawal: N/A  
Other: N/A

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): Cl A Misd - Not less than 2 dys to 6 mos  
Mandatory Minimum Term of Imprisonment: 60 Dys  
Fine (\$ Range): Not more than \$500  
Mandatory Minimum Fine: No

Administrative Licensing Actions:

Type of Licensing Action: (Susp/Rev): If based on suspension: Suspension; if based on revocation: Revocation

Length of Term of License Withdrawal Action: If based on suspension, an additional mandatory suspension period for a like period; if based on revocation, a mandatory 1 yr extension of the revocation period.

Mandatory Term of License Withdrawal Action: See the statement above.

<sup>1</sup>Even though this State does not have a vehicle homicide statute, it either suspends or revokes the license (and registration plates) for not less than one (1) no more than two (2) years of any person who has been convicted of either manslaughter or reckless homicide resulting from the operation of a motor vehicle. It appears that these suspensions or revocations are mandatory; see IC9-2-1-5(b)(1) & (c)(2).

STATE - Indiana

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Habitual Offender Laws:

State Has Such Law (Yes/No):  
Grounds for Being Declared an  
Habitual Offender:

Yes

2 convictions (w/n 10 yrs) for very severe offs as in IC9-12-1-4(b); 3 convictions (w/n 10 yrs) for major offs as listed in IC9-12-1-4(c); 10 convictions for any moving violations (w/n 10 yrs) (however, one of these must have been a conviction for an off listed in either IC9-12-1-4(b), IC9-12-1-4(c) or IC9-12-1-4(d).)

Term of License Rev While  
Under Habitual Offender Status:

2 convictions - 10 yr Susp; 3 convictions - 10 yr susp<sup>1</sup>; 10 convictions (moving violations) - 5 yr susp (A restricted license may be issued under certain limited conditions, see IC9-11-2-2-5.)

Type of Criminal Offense if  
Convicted on Charges of  
Driving While on Habitual  
Offender Status:

2 convictions - C1 D Felony; 3 convictions - C1 D Felony; 10 convictions - C1 D Felony

Sanctions Following a Conviction of  
Driving While on Habitual Offender  
Status:

Imprisonment (Term):

Not less than 1 yr nor more than 5 yrs; Court may suspend up to 180 dys of the sentence.

Mandatory Minimum Term of  
Imprisonment:

180 dys

Fine (\$ Range):

No

Mandatory Minimum Fine:

No

Licensing Actions (Specify):

Forfeiture of license for life

Other State Laws Related to Alcohol Use and Driving:

Laws Requiring BAC Chemical Tests on  
Those Persons Killed in Fatal Traffic  
Crashes:

State Has Such a Law (Yes/No):  
BAC Chemical Test Is Given to the  
Following Persons:

No

Driver:

N/A

Vehicle Passengers:

N/A

Pedestrian:

N/A

<sup>1</sup>A probationary license may be issued after five (5) yrs of the susp. period have passed.

STATE - Indiana

Other State Laws Related to Alcohol Use  
and Driving: (continued)

Laws Establishing the Minimum Ages

Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 21 (year Eff: 1934) IC7.7-5-7-7  
Minimum Age (Years) Possession: 21  
Minimum Age (Years) Consumption: 21

Dram Shop Laws and Related Legal Actions:

State has a Dram Shop Law (Yes/No): No

"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation):

Yes, Elder v. Fisher, 217 N.E.2d 847  
(1966) and Parrett v. Lebamoff, Inc. 408  
N.E.2d 1344 (Inc. App. 1980)

Dram Shop Actions--Social Hosts:

Yes Ashlock v. Norris, 475 N.E.2d 1167  
(Ind. App. 3 Dist., 1985)

Other:

N/A

Criminal Action Against Owners or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

Type of Criminal Action:

C1 B Misd IC7.1-5-1-8, 7.1-5-10-15 and  
35-50-3-3

Term of Imprisonment:

Not more than 180 dys

Fine (\$ Range):

Not more than \$1,000 (Note: An  
administrative fine of not more than \$500 may  
also be imposed; see IC7.1-3-23-3)

Administrative Actions Against Owners or  
Establishments that Serve Alcoholic  
Beverages to Intoxicate Patrons:

License of Serve Alcoholic Beverages

Withdrawn (Yes/No):

Yes, IC7.1-3-23-2 and 7.1-3-23-5

Length of Term of License Withdrawal: No period specified in the statute



STATE - Indiana

Other State Laws Related To Alcohol Use  
and Driving: (continued)

**Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Drinking Age:**

Type of Criminal Action:

Term of Imprisonment:

Fine (\$ Range):

C1 C Misd IC7.1-5-7-8- and 35-50-3-4

Not more than 60 dys

Not more than \$500 (Note: An administrative  
fine of not more than \$500 may also be imposed;  
see IC7.1-3-23-3)

**Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:**

License to Serve Alcoholic Beverages

Withdrawn (Yes/No):

Length of Term License Withdrawn:

Yes, IC7.1-3-23-2 and 7.1-3-23-5

For revs, no period is specified in the statute;  
see IC7.1-3-23-6. For susps, not more than 30  
dys; see IC7.1-3-23-7.

**Anti-Happy Hour Laws/Regulations:**

Yes IC7.1-5-10-20

**Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:**

Open Container Law (Yes/No):

Anti-Consumption Law (Yes/No):

No

No

STATE: IOWA  
General Comments: Iowa Code Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): 0.13% §321.281(1)(b)  
Presumption (BAC Level): 0.10% §321.281(8)  
Types of Drugs/Drugs and Alcohol: (1) Any Drug and (2) Any Combination of Drugs  
Including Alcohol See §321.281(1)(a)  
Other: N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: Yes Note: Applies only where there has been an injury or death related accident. §321B.3.  
Implied Consent Law:  
Arrest Required (Yes/No): No Special Note: Arrest may be a prior condition to an implied consent test under certain circumstances but is not required in all conditions; see §321B.4.  
Implied Consent Law Applies to Drugs (Yes/No): Yes §321B.4  
Refusal to Submit a Chemical Test Admitted into Evidence: Yes (Criminal & Civil Cases) §321B.29  
Other Information: A person may be req'd to submit to a chem. test via a search warrant issued pursuant to an invest. of invol. manslaughter (§707.5) where a traffic accident has resulted in a death or in a personal injury likely to cause death and there is evidence of a DWI off; see §321B.14

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes 321B.4  
Urine: Yes 321B.4  
Other: N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No  
Anti-Plea Bargaining Statute (Yes/No): No  
Pre-Sentencing Investigation Law (PSI) (Yes/No): Yes (Under §321.281 for a 2nd or subsequent DWI conviction, a defendant must undergo substance abuse evaluation) See also §§901.1 et. seq.

STATE - Iowa

Sanctions for Refusal to Submit to a BAC

Chemical Test:

Refusal to Take a Preliminary Breath Test:

Criminal Sanctions (Fine/Jail): N/A  
Administrative Licensing Action  
(Susp/Rev): N/A  
Other: N/A

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail): None  
Administrative Licensing Action  
(Susp/Rev):

Other:

Rev, 1st refusal - 240 dys; 2nd and subsequent refusals - 540 dys (A restricted license for employment/treatment purposes may be issued after 360 dys of the rev have elapsed) 321B.13  
If a defendant is subject to license rev under the implied consent law but pleads guilty to a DUI charge, they may be issued a restricted lic. for the implied consent law rev.; the restricted lic. may only be used for treatment/employment purposes.

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years,  
Etc.):

0.10 presump. off and 0.13 per se off, 1st off (Serious misd) - Not more than 1 yr, §321.281(2)(a); 2nd off w/n 6 yrs (aggravated misd) - Not more than 2 yrs, §321.281(2)(b); 3rd and sub off w/n 6 yrs (C1 D felony) - Not more than 5 yrs, §§902.9, 903.1

Mandatory Minimum Term:

0.10 presump. off and 0.13 per se off, 1st off (Serious misd) None<sup>1</sup>; 2nd off w/n 6 yrs (aggravated misd) - 7 dys<sup>2</sup> §321.281(2)(b); 3rd and sub offs w/n 6 yrs (C1 D felony) ---None

Fine:

Amount (\$ Range):

0.10 presump. off and 0.13 per se off, 1st off (Serious misd) - \$500 to 1,000; 2nd off w/n 6 yrs (Aggravated misd) - \$750 to 5,000; 3rd and sub offs w/n 6 yrs (C1 D felony) - \$750 to 1,000

<sup>1</sup>There is a minimum 48-hr sentence which may be suspended.

<sup>2</sup>This sentence may not be suspended. However, the statute is silent as to probation.

STATE - Iowa

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Mandatory Min. Fine (\$): 0.10 presump. off and 0.13 per se off, 1st off (serious misd) - \$500; 2nd off w/n 6 yrs (Aggravated misd) - \$750; 3rd and sub offs w/n 6 yrs (C) D felony) - \$750

Other Penalties:

Community Service: 0.10 presump. off and 0.13 per se off, 1st off (serious misd) - 50 to 200 hrs in lieu of the fine

Restitution (eg Victim's Fund) A separated additional civil penalty of \$100 is assessed against a defendant who has their license revoked as a result of a DWI conviction; money from these penalties is placed in a victim reparation fund. §§321.281(16), 321B.30 and 912. For any DWI off, the court may order the defendant to make restitution for any damages resulting from the off.

Other: Special Note: Deferred judgment is allowed for any DWI off; if a defendant is allowed such deferment their license is to be revoked from 30-90 dys; however, a restricted hardship license may be issued. See §321.281(6)

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: Yes, Admin. Per Se at 0.10% with license revs as follows: 1st off - 180 dys (or until the person reaches the age of 19 whichever period is longer; see §321.281); 2nd and sub offs (w/n 6 yrs of any other DWI rev) - 1 yr (A restricted hardship license may be issued for any Admin. Per Se rev) §321B.16

UVC Type of Provisions: Yes

Other: N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action (Susp/Rev): For 0.10 presumption or 0.13 illegal per se offs, 1st off - Rev; 2nd off - Rev; 3rd and subsequent offs - Rev; Any DWI off conviction where there has been a serious injury - Rev; Any DWI off conviction where there has been a death - Rev

STATE - Iowa

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Term of License Withdrawal

(Days, Months, Years, etc.): 1st off-1 yr (or until the def. reaches 19 whichever pd is longer); a rest. lic. may be iss'd for emp/drug eval or treatmt reasons<sup>1</sup>; 2nd off-1 yr; 3rd & sub offs-6 yrs (after 2 yrs a new lic may be iss'd if certain conditions are met; see §321.281(9)(d)<sup>1</sup>; Any DWI off conviction (serious injury involved) - addit'l Rev period of 1 yr shall be imposed notwithstanding any other Rev, see 321.281(9)(d)<sup>1</sup> Any DWI off conviction (death involved) - 6 yrs, see §321.281(9)(d)<sup>1</sup>

Mandatory Minimum Term of Withdrawal:

N/A

Other:

Rehabilitation:

Alcohol Education: No  
Alcohol Treatment: Yes for 2nd and subsequent offenses  
Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe): No

Vehicle Impoundment/Confiscation:

Authorized by Specific  
Statutory Authority: No  
Terms Upon Which Vehicle  
Will Be Released: N/A  
Other: N/A  
Miscellaneous Sanctions  
Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: No

Sanctions:

Criminal Sanction:

Imprisonment (Term): N/A  
Mandatory Minimum Term: N/A  
Fine (\$ Range): N/A  
Mandatory Minimum Fine: N/A

<sup>1</sup>Under 321.283(6), a temporary restricted license may be issued if the defendant is attending an alcohol treatment/education program.

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

**Administrative Licensing Action:  
Licensing Authorized and  
Type of Action:**

Even though this State does not have a veh homicide stat., it revokes the license for 1 yr for a conviction of manslaughter resulting from the operation of a motor veh. This licensing action is mandatory. If a death is DWI related, the license is revoked for 6 yrs; see §321.281 (9)(e)

**Length of Term of  
Licensing Withdrawal:** N/A  
**Mandatory Action—Minimum  
Length of License  
Withdrawal:** N/A  
**Other:** N/A

**Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:**

**Sanction:**

**Criminal:**

**Imprisonment (Term):** Serious misd - Not more than 1 yr  
§§321.281, 321.282, and 321B.15 and 903.1 (Under §321.219 a court cannot suspend sentence; this section is silent as to probation following sentencing.)

**Mandatory Minimum Term  
of Imprisonment:** None  
**Fine (\$ Range):** Not more than \$1,000  
**Mandatory Minimum Fine:** None

**Administrative Licensing Actions:**

**Type of Licensing Action  
(Susp/Rev):** Susp or rev

**Length of Term of License  
Withdrawal Action:** Original period of Susp or Rev extended an additional like period

**Mandatory Term of License  
Withdrawal Action:** Original period of Susp or Rev extended an additional like period

**Habitual Offender Laws:**

**State Has Such Law (Yes/No):** Yes 321.55 and 321.560

**Grounds for Being Declared an  
Habitual Offender:** 3 serious offs (w/n 6-yr period or 6 minor offs  
in a 2-yr period)

**Term of License Rev While  
Under Habitual Offender Status:** If based on serious offs - 2 to 6 yrs; if  
based on minor offs - 1 yr

STATE - Iowa

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	Aggravated misd
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	Not more than 2 yrs
Mandatory Minimum Term of Imprisonment:	N/A
Fine (\$ Range):	Not more than \$5,000
Mandatory Minimum Fine (\$):	N/A
Licensing Actions (Specify):	Same as for driving while revoked.

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No):	No
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	N/A
Vehicle Passengers:	N/A
Pedestrian:	N/A

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase:	19 (Year Eff: 1978)
Minimum Age (Years) Possession:	19 (There are exemptions for medical reasons, employment and home use with parental consent) §§123.33 and 123.47
Minimum Age (Years) Consumption:	N/A

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No):	Yes §123.92
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation):	Yes, Lewis v. State, 256 N.W. 2d 181 (Iowa 1977) and Haafke v. Mitchell, 347 N.W.2d 381 (Iowa 1984)

Dram Shop Actions-Social Hosts:

Other:	Yes See §123.49(1) and Clark v. Mincks, 364 N.W.2d 226 (1985)
	N/A

Other State Laws Related To Alcohol Use  
And Driving: (continued)

**Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

Type of Criminal Action: Simple misd §§123.49(1) & 123.50(1)  
Term of Imprisonment: Not more than 30 dys §123.50  
Fine (\$ Range): Not more than \$150

**Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Yes, Susp or rev §123.50  
Length of Term of License Withdrawal: Term of susp not specified; if the license is  
revoked, term of rev is 2 yrs

**Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:**

Type of Criminal Action: Simple misd §§123.49(2)(h) & 123.50  
Term of Imprisonment: Not more than 30 dys  
Fine (\$ Range): Not more than \$100

**Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Yes, 1st off - Susp; 2nd off w/n 2 yrs -  
Susp; 3rd off w/n 5 yrs - Susp; 4th off  
w/n 5 yrs - Rev; §123.50  
Length of Term License Withdrawal: 1st off - 14 dys; 2nd off w/n 2 yrs - 30  
dys; 3rd off w/n 5 yrs - 60 dys; 4th off  
w/n 5 yrs - 2 yrs

**Anti-Happy Hour Laws/Regulations:** No

**Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:**

Open Container Law (Yes/No): Yes §123.28 (The law states that "a person  
driving a motor veh. shall not knowingly possess  
in a motor veh. upon a public street or highway  
any open or unsealed bottle, can, jar or other  
receptacle containing an alc. bev. or beer w/the  
intent to consume"

Anti-Consumption Law (Yes/No): Yes - Driver and passengers §123.46 (The  
law states that "it is unlawful for any person  
to use or consume alcoholic liquors or beer upon  
the public streets or highways...")



STATE:  
General Comments:

KANSAS  
See Kansas Statutes Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	0.10 (§8-1567(a)(1))
Presumption (BAC Level):	N/A
Types of Drugs/Drugs and Alcohol:	Any Drug §8-1567(b)
Other:	0.10% is prima facie evidence that the defendant was under the influence of alcohol (§8-1005(a)(2))

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	No
Implied Consent Law:	
Arrest Required (Yes/No):	Yes
Implied Consent Law Applies to Drugs (Ye/No):	No
Refusal to Submit to Chemical Test Admitted into Evidence:	Yes (Criminal Cases) §8-1001(c)
Other Information:	N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes
Urine:	N/A
Other:	N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	Yes §8-1567(o) (certain diversion programs are excepted <sup>1</sup> )
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes §§8-1008 and 8-1567(c) See §10 of Senate Bill 699, 1982 as enacted

<sup>1</sup>A defendant is not eligible to enter a diversion program if: (1) They have previously participate in such a program; (2) they have been convicted of an alcohol related driving offense; (3) their BAC level at the time of arrest was 0.20 or more; or (4) they were involved in an accident which has resulted in either a death or a bodily injury. See §§12-4415(b) & 22-2908(2)(a). For a description of the diversion program, see §§12-4416 & 22-2909.

STATE - Kansas

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

**Refusal to Take a Preliminary Breath Test:**

Criminal Sanctions (Fine/Jail): N/A  
Administrative Licensing Action  
(Susp/Rev): N/A  
Other: N/A

**Refusal to Take Implied Consent  
Chemical Test**

Criminal Sanction (Fine/Jail): No  
Administrative Licensing Action  
(Susp/Rev): Susp for 6 mos-1 yr (May not be mandatory;  
see §8-255(b) KSA §8-1002(a)  
Other: N/A

Sanctions Following a Conviction for a DWI Offense:

**Criminal Sanctions:**

Imprisonment: 1st off -48 con. hrs-6 mos<sup>1</sup>; 2nd off (w/n 5 yrs)-90 dys-1 yr; 3rd and subsequent offs (w/n 5 yrs) - 90 dys-1 yr §8-1567(d), (e), (f), & (j)

Mandatory Minimum Term: 1st off (w/n 5 yrs)-48 con. hrs<sup>1</sup>; 2nd off (w/n 5 yrs)-5 con. dys; 3rd and subsequent offs (w/n 5 yrs)-90 dys

**Fine:**

Amount (\$ Range): 1st off - \$200-500; 2nd off (w/n 5 yrs)-\$500-1,000; 3rd and subsequent offs (w/n 5 yrs)-\$1,000-2,500

Mandatory Minimum Fine (\$): None

**Other Penalties:**

Community Service: 1st off - 100 hrs (in lieu of imprisonment); 2nd off (w/n 5 yrs)-Yes (May be ordered in lieu of fine; 3rd and subsequent offs (w/n 5 yrs)-Yes (May be ordered in lieu of fine; see §8-1567(g))

Restitution (eg Victim's Fund) Yes -- All offs

Other: N/A

**Administrative Licensing Actions:**

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: None  
UVC Type of Provisions: None  
Other: N/A

<sup>1</sup>Under §§12-4415, 12-4416 or 22-2906 et seq. a defendant may enter a diversion program for 1st off and have the DWI criminal charges dismissed after the program has been successfully completed.

STATE - Kansas

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Post DWI Conviction Licensing Action:

Type of Licensing Action

(Susp/Rev):

1st off-Susp.<sup>1</sup>; 2nd off-Susp; 3rd and subsequent offs-Rev; Note: Under §8-1567(k), the court has the discretionary power to revoke a person's license for 1 yr for a 1st or 2nd DWI conviction.

Term of License Withdrawal

(Days, Months, Years, etc.):

1st off-21 dys - 1 yr<sup>1</sup>; 2nd off-120dys-1 yr<sup>2</sup>; 3rd and subsequent offs-1 yr

Mandatory Minimum Term of  
Withdrawal:

1st off-21 dys; 2nd off-120 dys. ; 3rd and subsequent offs - 1 yr (may not be mandatory; see §8-255(b))

Other:

Rehabilitation:

Alcohol Education:

1st off-Defendant must complete either an alcohol education or treatment program; see §8-1567(c), (d), & (e).

Alcohol Treatment:

N/A

Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe):

Note: Attendance at an alcohol education or treatment program could be a condition for issuing a restricted license.

Vehicle Impoundment/Confiscation:

Authorized by Specific

Statutory Authority:

N/A

Terms Upon Which Vehicle

Will Be Released:

N/A

Other:

N/A

Miscellaneous Sanctions

Not Included Elsewhere:

N/A

<sup>1</sup>(1) The license is suspended for 1 year or (2), in lieu of the full 1 year susp., the license is suspended for 21 days or until the person completes an alcohol education/treatment program whichever is the longer susp. period and thereafter restricted driving privileges are granted for the remainder of the one (1) year period. §8-1567(d)

<sup>2</sup>(1) The license is suspended for 1 year or (2), in lieu of the full 1 year susp., the license is susp. for 120 days or until the person completes an alcohol treatment program whichever is the longer susp. period and thereafter driving privileges are granted for the remainder of the one (1) year period. §8-1567(e)

STATE - Kansas

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes--C1 A misd; Death caused by operation of a veh in a manner which causes unreasonable risk. (KSA §§21-3405, 21-4502, and 21-4503)

Sanctions:

Criminal Sanction:

Imprisonment (Term): Not more than 1 yr  
Mandatory Minimum Term: N/A  
Fine (\$ Range): Not more than \$2,500  
Mandatory Minimum Fine: N/A

Administrative Licensing Action:

Licensing Authorized and Type of Action: Rev  
Length of Term of Licensing Withdrawal: Not less than 1 yr  
Mandatory Action--Minimum Length of License Withdrawal: No (A restricted license may be issued.)  
Other: N/A

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): 1st off C1 B misd-Not more than 6 mos; 2nd off C1 A misd-Not more than 1 yr; 3rd and subsequent off C1 E felony - 1-5 yrs §8-262  
Mandatory Minimum Term of Imprisonment: 90 dys For all offenses (KSA §8-262(a)(4))  
Fine (\$ Range): 1st off-Not more than \$1,000; 2nd off-Not more than \$2,500; 3rd and subsequent off - Not more than \$5,000;  
Mandatory Minimum Fine: None

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev): All offs - If convicted of driving while license suspended, a susp; If convicted of driving while license revoked, a rev  
Length of Term of License Withdrawal Action: Susp period extends and equals that of original susp period; Rev period is 6 mos and is added onto the original rev period  
Mandatory Term of License Withdrawal Action: Susp period extends and equals that of original susp period; Rev period is 6 mos and is added onto original rev period

STATE - Kansas

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Habitual Offender Laws:

State Has Such Law (Yes/No): Yes §8-285 (KSA §§8-284 et seq.)  
Grounds for Being Declared an Habitual Offender: Three serious offs within 5 yrs

Term of License Rev While Under Habitual Offender Status: 3 yrs  
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: CI E felony

Sanctions Following a Conviction of Driving While on Habitual Offender Status:

Imprisonment (Term): 1-5 yrs  
Mandatory Minimum Term of Imprisonment: N/A  
Fine (\$ Range): Not more than \$5,000  
Mandatory Minimum Fine (\$): N/A  
Licensing Actions (Specify): No specific licensing action in the statute for this off

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No): No  
BAC Chemical Test Is Given to the the Following Persons:  
Driver: N/A  
Vehicle Passengers: N/A  
Pedestrian: N/A

STATE - Kansas

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Laws Establishing the Minimum Ages  
Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 21<sup>1</sup> (Yr. eff: 1985) §§21-3610, 21-3610a,  
41-102(k) & 41-2701(g)  
Minimum Age (Years) Possession: 21<sup>2</sup> §§2 & 3 of S.B. 126 as enacted in 1985  
Minimum Age (Years) Consumption: 21<sup>2</sup> §§2 & 3 of S.B. 126 as enacted in 1985

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): No (No recent cases have been decided on  
this subject by the State Supreme Court.)

"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation):

No

Dram Shop Actions--Social Hosts: No (No Cases)  
Other: N/A

Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

Type of Criminal Action: Misd (KSA §§21-4502, 41-320, 41-328, 41-715,  
41-2708, and 77-201)<sup>3</sup>  
Term of Imprisonment: Not more than 30 dys<sup>3</sup>  
Fine (\$ Range): \$100-250<sup>3</sup>

<sup>1</sup>Under a "grandfather" clause (see §41-2701(g)), the legal drinking age for alcoholic beverages, containing 3.2% or less alcohol, is 19 for all persons born before July 1, 1966 but is 21 for persons born after this date.

<sup>2</sup>Except for licensed establishments, persons under the legal drinking age for alcoholic beverages, containing 3.2% or less alcohol, may possess and consume such beverages if they have the consent of and are supervised by a parent or guardian; see §§41-2704(e) & 41-2721.

<sup>3</sup>These sanctions, it appears, only apply to the service of alcoholic beverages containing more than 3.2% alcohol to intoxicated persons. See §§41-102(b) & 41-715.

STATE - Kansas

Other State Laws Related To Alcohol Use  
And Driving: (continued)

**Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):

Susp or rev A civil penalty of up to \$1,000  
may be imposed

Length of Term of License Withdrawal: Not specified in the statute

**Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:**

Type of Criminal Action:

C) B misd (furnishing alcoholic beverages to any  
person under 21 yrs of age) (KSA §§21-3610 &  
21-3610a)

Term of Imprisonment:

Not more than 6 mos

Fine (\$ Range):

Not more than \$1,000

**Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):

Susp or rev KSA §§41-2611(e) and 41-2708(k)

Length of Term License Withdrawal:

Not specified §§41-715 and 41-2615 §41-2708

Anti-Happy Hour Laws/Regulations:

Yes See P.L. 174 enacted in 1985

**Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:**

Open Container Law (Yes/No):

Yes §§41-804 & 41-2719

Anti-Consumption Law (Yes/No):

Yes Driver and passengers §§41-719(a) &  
41-2720(a)

STATE:

KENTUCKY

General Comments:

See: Kentucky Revised Statutes Annotated, 1980, 1982 Cum. Supp. (current through 1982 Regular Session).

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):

No

Presumption (BAC Level):

0.10% §189.520(3)(c)

Types of Drugs/Drugs and Alcohol:

Any Substance See §1(1) of Ch 165 of the laws of 1984

Other:

No

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:

Yes §10 of S.B. 20 as enacted in 1984

Implied Consent Law:

Arrest Required (Yes/No):

Yes

Implied Consent Law Applies to Drugs (Yes/No):

No

Refusal to Submit to Chemical Test

Admitted into Evidence:

n.a.

Other Information:

No Special Note: After a DWI arrest, if a defendant shows a BAC level of 0.15%, they must be detained in custody at least 4 hrs following their arrest; see §11 of Senate Bill 20 as enacted in 1984.

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:

Yes

Urine:

Yes

Other:

Yes- saliva

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):

No

Anti-Plea Bargaining Statute (Yes/No):

Yes If a defendant's BAC is 0.15% or more Note: If a defendant's BAC level is 0.10 to 0.15, a DWI charge may be changed provided the prosecutor gives reasons for such action to the court and the court records the reasons for such change, if granted, in the record of the case; see 12 of Senate Bill 20 as enacted in 1984.

Pre-Sentencing Investigation Law (PSI) (Yes/No):

No



STATE - Kentucky

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test:

Criminal Sanctions (Fine/Jail): No  
Administrative Licensing Action  
(Susp/Rev): No  
Other: No

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail): No  
Administrative Licensing Action  
(Susp/Rev): Rev- Not more than 6 mos (Not  
mandatory) \$186.565(4)  
Other: None

Sanctions Following a Conviction for a DWI Offense:

Note: See Ch. 189 as amended by §1 Senate Bill  
20 as enacted in 1984.

Criminal Sanctions:

Imprisonment: 1st off-48 hrs-30 dys; 2nd off (w/n 5  
years)-7 dys-6 mos; 3rd and subsequent offs  
(w/n 5 years)-30 dys-12 mos

Mandatory Minimum Term:

1st off - 48 hrs<sup>1</sup>; 2nd off (w/n 5 years)-  
7 dys; 3rd and subsequent offs-30 dys

Fine:

Amount (\$ Range): 1st off-\$200-500; 2nd off (w/n 5 years)-  
\$350-500; 3rd and subsequent offs-  
\$500-1,000; A convicted DWI defendant must  
pay an \$150 service fee in addition to any other  
fine; see §5 of senate bill 20.

Mandatory Minimum Fine (\$): None

Other Penalties:

Community Service: 1st off - 2-30 dys<sup>2</sup>; 2nd off (w/n 5 years)  
- 10 dys-6 mos<sup>3</sup>; 3rd and subsequent offs  
(w/n 5 years) - 10 dys-12 mos<sup>3</sup>

Restitution (eg Victim's Fund) Yes; see §348.020-a victim's compensation  
board

<sup>1</sup>Mandatory only if defendant has caused physical injury as a result of the DWI, off in which  
case a defendant cannot receive community service in lieu of this prison term.

<sup>2</sup>In lieu of fine or imprisonment except for injury related DWI offs

<sup>3</sup>A defendant may be sentenced to community service in addition to any other sanctions  
imposed; if the court imposes community service, the minimum term noted must be served

STATE - Kentucky

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Other: Note: (1) For a first DWI offs conviction, at least one of the penalties (prison, fine, community service) must be assessed against defendant (2) For 1st and 2nd offenders, the imprisonment may be served on wkends provided that the period of incarceration be at lease 24 hrs; see §§1 and 3 of S.B. 20.

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: Yes<sup>1</sup>  
UVC Type of Provisions: Yes  
Other: No

Post DWI Conviction Licensing Action:

Type of Licensing Action

(Susp/Rev): 1st off-Rev or Susp; 2nd off - 12 mos Rev (mandatory); 3rd off - 24 mo Rev (mandatory) see §7 of S.B. 20

Term of License Withdrawal

(Days, Months, Years, etc.): 1st off-6 mos Rev or a 30 dys (Mandatory) susp and an alcohol education/treatment program; 2nd off-12 mo license Rev; 3rd off-24 mo license Rev; see §7 of S.B. as enacted in 1984

Mandatory Minimum Term of Withdrawal:

1st off-6 mos license Rev of a 30 dys (Mandatory) susp and an alcohol education/treatment program; 2nd off-12 mo license Rev (Mandatory); 3rd off-24 mo license Rev (Mandatory) §7 of S.B.

Other:

Rehabilitation:

Alcohol Education: Yes (See alternatives below)  
Alcohol Treatment: For 2nd, 3rd and subsequent DWI off convictions, the defendant must be sentenced to an alcohol or substance abuse program

<sup>1</sup>A court may suspend a driver's license following a DWI arrest but prior to adjudication of the DWI charges if there is probable cause that the defendant committed such off and any one of the following circumstances is present: (1) Prior traffic violations (including DWI offs) which demonstrate a lack of regard for the safety of others; or (2) where the DWI charge involves physical injury the Court may suspend a license from 14 to 60 dys. If the defendant is convicted of the DWI charge, any admin per se susp time is credited towards their license rev following such conviction: See § 6 of Senate Bill 20 as enacted in 1984.

STATE - Kentucky

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe):

For a first DWI off conviction, a defendant may have their license rev reduced from 6 mos to a 30 dy susp if they attend an alcohol of substance abuse education or treatment program

Vehicle Impoundment/Confiscation:

Authorized by Specific  
Statutory Authority: No  
Terms Upon Which Vehicle  
Will Be Released: N/A  
Other: N/A  
Miscellaneous Sanctions  
Not Included Elsewhere: None

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: No (Special Note: "A person is guilty of manslaughter in the second degree when, including, but not limited to, the operation of a motor vehicle, he wantonly causes the death of another person (See § 507.040(1)); manslaughter in the second degree is a C1 C felony" (See § 507.040(2))

Sanctions:

Criminal Sanction:  
Imprisonment (Term): N/A  
Mandatory Minimum Term: N/A  
Fine (\$ Range): N/A  
Mandatory Minimum Fine: N/A

Administrative Licensing Action:

Licensing Authorized and  
Type of Action: Note: Even though this state does not have vehicle homicide statute, it, nevertheless provides for mandatory license rev for at least 6 mos for a conviction of manslaughter resulting from operation of a motor vehicle; there rev period is longer if then has been a previous mandatory lic rev action.

Length of Term of  
Licensing Withdrawal: None  
Mandatory Action--Minimum  
Length of License  
Withdrawal: None  
Other: None

STATE - Kentucky

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): 1st off (C1 B misd)-Not more than 90 dys; 2nd off (C1 A misd)-Not more than 12 mos; 3rd and subsequent offs (C1 D felony)-1-5 yrs; §§532.060 & 532.090 see Ch. 189 as amended by §9 senate bill 20

Mandatory Minimum Term of Imprisonment: None

Fine (\$ Range): 1st off-Not more than \$250; 2nd off-Not more than \$500; 3rd and subsequent offs-Not more than \$10,000<sup>1</sup>; §§534.030 & 534.040

Mandatory Minimum Fine: None

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev): 1st off-Rev; 2nd off-Rev; 3rd and subsequent offs-Rev

Length of Term of License Withdrawal Action: The driver's license shall be revoked for twice the original period of rev

Mandatory Term of License Withdrawal Action: Yes, as indicated immediately above

Habitual Offender Laws:

State Has Such Law (Yes/No): Yes 186.642

Grounds for Being Declared an Habitual Offender: 3 or more serious offs (including DWI offs) within 5 years

Term of License Rev While Under Habitual Offender Status: Rev of license for a period of 5 yrs if habitual offender status is based on three or more convictions for DWI

Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: Misd

<sup>1</sup>This fine is imposed only if the defendant is granted either a sentence of probation or conditional discharge.

STATE - Kentucky

Other Criminal Actions Related to Alcohol  
Use and Driving: (continued)

Sanctions Following a Conviction of  
Driving While on Habitual Offender  
Status:

Imprisonment (Term):	Not to exceed 12 mos
Mandatory Minimum Term of Imprisonment:	No
Fine (\$ Range):	No
Mandatory Minimum Fine (\$):	No
Licensing Actions (Specify):	See section on suspended or revoked license

Other State Laws Related To Alcohol Use  
And Driving:

Laws Requiring BAC Chemical Tests on  
Those Persons Killed in Fatal Traffic  
Crashes:

State Has Such a Law (Yes/No):	Yes <sup>1</sup>
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes
Vehicle Passengers:	Yes
Pedestrian:	Yes

Laws Establishing the Minimum Ages  
Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase:	21 (Year Eff: 1938)
Minimum Age (Years) Possession:	21 §244-085
Minimum Age (Years) Consumption:	N/A

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No):	No
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation):	Yes, Pike v. George 434 SW 2d 626 (Ky. 1968)
Dram Shop Actions--Social Hosts:	No (No cases)
Other:	None

<sup>1</sup>Language in Ky. Rev. Stat. Ann. §189.590 requiring coroners to report on the circumstances surrounding fatal accidents may impliedly require such tests. *Woosley v. Central Uniform Rental*, 463 S.W. 2d 345 (1971). An investigative officer or a coroner may direct taking of blood samples of dead if necessary. OAC 73-170; OAG 73-196. A person dead or unconscious is deemed not to have revoked implied consent to BAC test. Ky. Rev. Stat. Ann § 186.565.

STATE - Kentucky

Other State Laws Related To Alcohol Use  
And Driving: (continued)

**Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

**Type of Criminal Action:** 1st off-Misd; 2nd and subsequent  
off-Misd §§244.080(2) & 244.990(1)  
**Term of Imprisonment:** 1st off-Not more than 6 mos; 2nd off-Not  
more than 6 mos  
**Fine (\$ Range):** 1st off-\$100-200; 2nd off-\$200-500

**Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

**License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):** **Revocation §244.990(1)**  
**Length of Term of License Withdrawal:** **Not specified**

**Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:**

**Type of Criminal Action:** 1st off-Misd; 2nd off-Misd §§244.080(1)  
& 244.990(1)  
**Term of Imprisonment:** 1st off-Not more than 6 mos; 2nd off-Not  
more than 6 mos  
**Fine (\$ Range):** 1st off - \$100-200; 2nd off-\$200-500

**Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:**

**License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):** **Yes - Revocation §244.990(1)**  
**Length of Term License Withdrawal:** **Not specified**

**Anti-Happy Hour Laws/Regulations:** **No**

**Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:**

**Open Container Law (Yes/No):** **No**  
**Anti-Consumption Law (Yes/No):** **Yes Driver & passengers §244.020 The law  
states that "no person shall drink any alcoholic  
beverage in any public place in or upon any  
passenger coach,street car or other vehicle  
commonly used for the transportation of  
passengers"**

STATE:

LOUISIANA

General Comments:

See West's Louisiana Statutes Annotated:  
Revised Statutes

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	0.10% §14:98(A)(2)
Presumption (BAC Level):	0.10% §32:662(A) (1) (c)
Types of Drugs/Drugs and Alcohol:	Any Controlled Dangerous Substance See §14:98(A)(3)
Other:	No

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	No
Implied Consent Law:	
Arrest Required (Yes/No):	Yes §32:661
Implied Consent Law Applies to Drugs (Yes/No):	No
Refusal to Submit to Chemical Test Admitted into Evidence:	Yes (Criminal cases only; prohibited in civil cases) §32:666A(3)
Other Information:	Special Note: Under §32:666 a driver may not refuse to submit to a chemical test if they have been involved in a traffic fatality or accident resulting in a serious bodily injury

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood:	Yes §32:661
Urine:	Yes §32:661
Other:	Other bodily substance §32:661

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Optional; see §14:98G

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	N/A
Administrative Licensing Action (Susp/Rev):	N/A
Other:	N/A
Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	No

STATE - Louisiana

Sanction for Refusal to Submit to a BAC  
Chemical Test: (continued)

Administrative Licensing Action  
(Susp/Rev):

1st refusal- Susp for 180 dys, the first 90  
dys are mandatory; 2nd and subsequent refusals-  
Susp for 545 dys (Mandatory); 32:667(B)(2) &  
32:668(B)(1), (2), & (3)

Other:

Special Note: A hardship license is only  
available to drivers for a 1st refusal after the  
first 90 dys of the susp period have passed.

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years,  
Etc.):

1st off-10 dys-6 mos; 2nd off (w/n 5  
yrs)-30 dys-6 mos; 3rd off-felony (w/n 5  
yrs)-1-5 yrs (w/or w/o hard labor)<sup>3</sup>; 4th  
off felony (w/n 5 yrs)-10-30 yrs (w/hard  
labor) §14:98; DWI related injury-Not more than  
6 mos (§§14:2(4) and 14:39.1)

Mandatory Minimum Term:

1st off-<sup>1</sup>; 2nd off (w/n 5 yrs)-<sup>2</sup>; 3rd  
off-felony (w/n 5 yrs)-6 mos<sup>2</sup>

Fine:

Amount (\$ Range):

1st off-\$125-500; 2nd off (w/n 5  
yrs)-\$300-500; 3rd off felony-Not more than  
\$1,000; 4th off felony - None; DWI related  
injury (veh. negligent injury)-Not more than  
\$500 (See Footnote No. 4)

Mandatory Min. Fine (\$):

None

<sup>1</sup>Alternatives to the imposition of sentence w/probation (The imposition of sentence is mandatory unless one of these alternatives is taken): (1) Serve a minimum of 2 dys in jail and participate in substance abuse and driver improvement programs or (2) perform at least four eight-hr dys of community service and participate in substance abuse and driver improvement programs.

<sup>2</sup>Alternatives to the imposition of sentence w/probation (The imposition of sentence is mandatory unless one of these alternatives is taken): (a) Serve a minimum of 15 dys in jail and participate in substance abuse and driver improvement programs or (b) perform at least 30 eight-hr dys of community service and participate in substance abuse and driver improvement programs.

<sup>3</sup>If probation is granted for part of the sentence, the defendant must participate in substance abuse and driver improvement programs; however, 6 mos of the sentence is mandatory.

<sup>4</sup>Defendants must also pay a fee of not less than \$50 for felony convictions or one of \$7.50 for misdemeanor convictions, this fee is deposited in the State Treasury for the purpose of funding the crime victims reparations fund. See 46:1816(:)(1)(a)



STATE - Louisiana

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Other Penalties:  
Community Service: N/A  
Restitution  
(e.g. Victim's Fund) N/A<sup>1</sup>  
Other: N/A

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: Yes BAC level of 0.10%; 1st Off-Susp for 90 dys; The 1st 30 dys are mandatory; A restricted license may be issued a for the remaining 60 dys of the susp period; 2nd and subsequent offs (w/n 5 yrs)-Susp for 365 dys (mandatory); 32:667(B)(1) and 32:668(B)(3)  
UVC Type of Provisions: Yes  
Other: N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action  
(Susp/Rev): 1st off-Susp; 2nd and subsequent offs (w/n 5 yrs)-Rev §32:414

Term of License Withdrawal  
(Days, Months, Years, etc.): 1st off-60 dys (Hardship provision (to earn livelihood) for 1st off only); 2nd and subsequent offs (w/n 5 yrs)-12 mos §32:414 & §32:415.

Mandatory Minimum Term of  
Withdrawal: 1st off-No; 2nd and subsequent offs (w/n 5 yrs)-12 mos

Other:

Rehabilitation:  
Alcohol Education: Yes Note: § 32-415.1(A)(2). Judges are given the authority to refer first time offenders for education or rehabilitation. Restricted licenses are issued to facilitate attendance in driver improvement schools. Courts grant based on medical evaluation and on recommendations that the convicted DWI offender will benefit from such treatment. § 14:98 (c) authorizes the court to order a DWI offender to undergo substance abuse treatment program in lieu of imprisonment.  
Alcohol Treatment: Yes

<sup>1</sup>A victim of a motor vehicle accident is not eligible for state compensation unless there was a crime watch caused the injury or death and such was intentional. See § 46:1805(B)

STATE - Louisiana

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe): Yes

Vehicle Impoundment/Confiscation:  
Authorized by Specific  
Statutory Authority: No  
Terms Upon Which Vehicle  
Will Be Released: N/A  
Other: N/A  
Miscellaneous Sanctions  
Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:  
State Has Such Law/Type of Offense: Yes- Is restricted to death caused by a  
driver while DWI, or under the influence of  
certain drugs §14:32.1

Sanctions:  
Criminal Sanction:  
Imprisonment (Term): 2-5 yrs  
Mandatory Minimum Term: N/A  
Fine (\$ Range): \$2,000-5,000  
Mandatory Minimum Fine: N/A

Administrative Licensing Action:  
Licensing Authorized and  
Type of Action: Rev §32:414  
Length of Term of  
Licensing Withdrawal: 12 mos  
Mandatory Action--Minimum  
Length of License  
Withdrawal: 12 mos  
Other: N/A

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:

Sanction: Note: "offs" defined at Art. 933, C. Cr. P.  
Criminal:  
Imprisonment (Term): 7 dys-6 mos (if such violation was  
simultaneous with a second or subsequent DWI  
conviction)  
Mandatory Minimum Term  
of Imprisonment: 1st off-No; 2nd off-7 dys

STATE - Louisiana

Other Criminal Actions Related to Alcohol  
Use and Driving: (continued)

Fine (\$ Range): 1st off-Not more than \$500; 2nd off  
\$300-500; §32:415 §32:427 Act No. 556  
Mandatory Minimum Fine: 1st off-No; 2nd off-No

Administrative Licensing Actions:

Type of Licensing Action  
(Susp/Rev): Susp or rev periods are increased  
Length of Term of License  
Withdrawal Action: 1 yr  
Mandatory Term of License  
Withdrawal Action: 1 yr (Hardship license available for first  
offenders: see Sec. 32:451.1)

Habitual Offender Laws:

State Has Such Law (Yes/No): Yes  
Grounds for Being Declared an  
Habitual Offender: Convictions for 2 or more serious traffic law  
offs w/n a 5 yr period or convictions for 10 or  
more minor and serious offs w/n a 3-yr period  
§32:1472

Term of License Rev While

Under Habitual Offender Status: 3 yrs (Also, "certain financial  
responsibility requirements must be met and  
petition must be made to court which may, upon  
showing of good cause, restore the license;  
Note: A 1st time habitual offender may apply  
for a hardship license under §32:1477(B)) (Act.  
No. 555)

Type of Criminal Offense if  
Convicted on Charges of  
Driving While on Habitual  
Offender Status

Misd Act. 933, C. Cr.P.

Sanctions Following a Conviction of  
Driving While on Habitual Offender  
Status:

Imprisonment (Term): 1-5 yrs §32:1480 Act No. 555  
Mandatory Minimum Term of  
Imprisonment: No  
Fine (\$ Range): None  
Mandatory Minimum Fine (\$): No  
Licensing Actions (Specify): None

Other State Laws Related To Alcohol Use  
And Driving:

Laws Requiring BAC Chemical Tests on  
Those Persons Killed in Fatal Traffic  
Crashes:

State Has Such a Law (Yes/No): Yes

STATE - Louisiana

Other State Laws Related To Alcohol Use  
And Driving: (continued)

BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes §32:661(A)
Vehicle Passengers:	Yes §32:398(E) & (F)
Pedestrian:	Yes §32:398(E) & (F)
Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	18 §26:88(1) (See also R.S. §14-91) (Year Eff: 1948)
Minimum Age (Years) Possession:	N/A
Minimum Age (Years) Consumption:	N/A
Dram Shop Laws and Related Legal Actions:	
State Has a Dram Shop Law (Yes/No):	No
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation):	No Note: Possible liability under Pence v. Ketchum, 326 So. 2d 831 (La. 1976) and Chausee v. Southland, 400 So.2d 1199 (La. App., 1981)
Dram Shop Actions-Social Hosts:	Possible See Garcia v. Jennings, 427 So.2d 1329 (1983). Note: This case applied to the actions of intoxicated minors who were given alcoholic beverages in violation of a statute that prohibits adults from purchasing such beverages for minors.
Other:	No
Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
Type of Criminal Action:	A. For alcoholic beverages with an alcohol content of 6% or above-Misd §§ 26:2(1) & 26:88(2) B For alcoholic beverages with an alcohol content of 1/2 of 1% to 6%-Misd §§ 26:241(1) & 26:285(2)
Term of Imprisonment:	A. For alcoholic beverages with an alcohol content of 6% or above-30 dys-6 mos §26:191 B. For alcoholic beverages with an alcohol content of 1/2 of 1% to 6%, <u>1st off-30 dys-6 mos; 2nd or subsequent off-60 dys-12 mos; §26:521</u>

STATE - Louisiana

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Fine (\$ Range):	A. For alcoholic beverages with an alcohol content of 6% or above-\$100-500 (and/or the following administrative fines: <u>1st off-\$50-500; 2nd off-(w/n 3 yrs)-250-1,000 3rd off-(w/n 3 yrs)-\$500-2,500; 26:94</u> ) B. For alcoholic beverages with an alcohol content of 1/2 of 1% to 6% <u>1st off \$100-500; 2nd or sub offs-200-1,000 § 26:521</u> (and/or the following administrative fines: <u>1st off-\$50-500; 2nd off (w/n 3 yrs) - \$250 - 500; 3rd off-(w/n 3 yrs) - \$500 - 2,500; 26:290</u> )
Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes Revocation or Suspension (not mandatory) §§26:88(13) & 26:285(13)
Length of Term of License Withdrawal:	Not specified
Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:	
Type of Criminal Action:	A. For alcoholic beverages with an alcoholic content of 6% or above - Misd §§ 26:2(1) & 26:886(1) B. For alcoholic beverages with an alcoholic content of 1/2 of 1% to 6% - Misd §§ 26:241(1) & 26:286(1)
Term of Imprisonment:	Same as for serving alcoholic beverages to
Fine (\$ Range):	See intoxicated person above.
Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes, but not mandatory
Length of Term License Withdrawal:	1 yr
Anti-Happy Hour Laws/Regulations:	No
Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:	
Open Container Law (Yes/No):	No
Anti-Consumption Law (Yes/No):	No

STATE:

MAINE

General Comments:

See Maine Revised Statutes Annotated. Section references are to 29 MRSA unless otherwise stated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	Yes 0.10% (Both a criminal violation and a traffic infraction) §§1312-B and 1312-C <sup>1</sup>
Presumption (BAC Level):	N/A
Types of Drugs/Drugs and Alcohol:	(1) Intoxicating Drugs or (2) a Combination of Liquor and Drugs §§1312-B(1) & 1312-C(2)
Other:	N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	No
Implied Consent Law:	
Arrest Required (Yes/No):	No
Implied Consent Law Applies to Drugs (Yes/No):	No
Refusal to Submit Chemical Test Admitted into Evidence:	Yes (Criminal Cases) §1312(8)
Other Information:	The officer does not have to arrest a driver, they nevertheless, must have "probable cause" before a suspected drunk driver has to submit to a chemical test. §1312

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes §1312
Urine:	N/A
Other:	N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	Must adjudicate as a criminal violation if BAC level is 0.20% or more
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	No

<sup>1</sup>29 MRSA §1312-C was declared unconstitutional by the Supreme Judicial Court of Maine (the State's highest court of record); see State v. Freeman, 487 A.2d 1175 (Me 1985). Sec. 1312-C established DWI traffic infractions.

STATE - Maine

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test:

Criminal Sanctions (Fine/Jail): N/A  
Administrative Licensing Action  
(Susp/Rev): N/A  
Other: N/A

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail): None  
Administrative Licensing Action  
(Susp/Rev): 1st refusal- Susp for 180 dys (A  
restricted license may be issued after the first  
90 dys which are mandatory; see §1312-D(5)); 2nd  
refusal (w/n 6 yrs)- Susp for 1 yr  
(mandatory) §1312(2)  
Other: N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years,  
Etc.):

Criminal violation (C) D crime) less than 1  
yr; Traffic infraction<sup>1</sup>-Not applicable to a  
traffic infraction 29 §§1312-B & -C

Mandatory Minimum Term:

1st off A DWI conv. where the defendant (1) had  
a BAC level of 0.15 or more, (2) was driving 30  
MPH over the speed limit with a BAC level of  
0.10 or more or (3) was eluding a police officer  
and had a BAC level 0.10 or more-Not less than  
48 hrs.; 2nd off. (w/n 6 yrs)-7 days; sub.  
offs. (w/n 6 yrs)-30 dys. 29 §1312-B, sub. 2

Fine:

Amount (\$ Range):

Criminal violation-Not more than \$1,000;

Traffic infraction<sup>1</sup>-\$250-500

Mandatory Min. Fine (\$):

1st off-\$300; 2nd off (w/n 6 yrs.)-\$500;

3rd off (w/n 6 yrs.)-\$750 29 §1312-B

Other Penalties:

Community Service:

None

Restitution

None

(eg Victim's Fund)

Other:

Note: If a person's BAC level is 0.20% or more,  
the state may not elect to prosecute the DWI off  
as a traffic infraction. §1312(C)(5)

<sup>1</sup>A person shall not be charged with a traffic infraction if they have been convicted of  
either such an infraction or an alcohol criminal violation within a six (6) yr period. See  
footnote on p.3-138.

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: Yes-0.10 BAC level. The periods of license susp for 1st and subsequent offs are the same as Post DWI Conviction Licensing Actions (below); however, a work restricted license may be issued; see 29 MRSA §1311-A<sup>1</sup>.

UVC Type of Provisions: Yes  
Other: N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action (Susp/Rev): For all offs - Susp

Term of License Withdrawal (Days, Months, Years, etc.): Criminal offs (§ 1312-B) 1st off-90 dys; 2nd off (w/n 6 yrs.)-1 yr; Subsequent offs (w/n 6 yrs)-2 yrs.; §§1312-B & 1312-D(1) Note: The licensing agency may increase the above susp. periods up to 275 dys; see 1312-D(1-A). See footnote on p.3-138.

Mandatory Minimum Term of Withdrawal: None See Special Note below.

Other:

Rehabilitation:

Alcohol Education: N/A

Alcohol Treatment: N/A

Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe):

Special Note: After 2/3 of license susp period have passed, the DWI offender may be issued a license if they have completed an alcohol education/treatment program. If the actual license susp period is less than 90 dys, the license issued must be restricted to going either to employment or to an alcohol education/treatment program (until the time period the license was actually suspended plus the time period for the restricted license equals at least 90 dys. In addition, a temporary restricted license may be issued to a driver for the purpose of allowing them to attend an alcohol education/treatment program notwithstanding any other provision of law; see §1312-D(2), (3) and (4).

<sup>1</sup>Maine has a special statute concerning the administrative susp of licenses for 1 yr of persons under 21 yrs of age who operate a veh while having a BAC level of 0.02%; hardship and provisional licenses are available; this statute is not reported in detail here; see 29 MRSA 2241-G.



STATE - Maine

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Vehicle Impoundment/Confiscation:  
Authorized by Specific  
Statutory Authority: No  
Terms Upon Which Vehicle  
Will Be Released: N/A  
Other: N/A  
Miscellaneous Sanctions  
Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes, applies only if death is caused by the  
reckless operation of a veh. 17-A MRSA §203 and  
29 MRSA §1313

Sanctions:

Criminal Sanction:

Imprisonment (Term): Not more than 5 yrs  
Mandatory Minimum Term: N/A  
Fine (\$ Range): Not more than \$2,500  
Mandatory Minimum Fine: N/A

Administrative Licensing Action:

Licensing Authorized and  
Type of Action: Rev  
Length of Term of  
Licensing Withdrawal: 5 yrs  
Mandatory Action—Minimum  
Length of License  
Withdrawal: 5 yrs  
Other:

Special Note: If alcohol or drugs are involved  
in a criminal homicide caused by the operation  
of a motor vehicle, a defendant must complete a  
driver education program and, if needed, a  
substance abuse and/or 2 yr. after care programs  
prior to license restoration. See 29 MRSA  
§1313-A, para. 3.

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): Less than 1 yr (C1 D crime) §2184  
Mandatory Minimum Term  
of Imprisonment: 7 dys  
Fine (\$ Range): Not more than \$2,500 §2184  
Mandatory Minimum Fine: \$350

STATE - Maine

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev): Susp  
Length of Term of License Withdrawal Action: 1-3 yrs added to the original susp or rev  
Mandatory Term of License Withdrawal Action: 1 yr added to the original susp or rev

Habitual Offender Laws:

State Has Such Law (Yes/No): Yes §2292  
Grounds for Being Declared an Habitual Offender: Convictions for 3 serious offs. (e.g. DWI)  
Term of License Rev While Under Habitual Offender Status: The rev period is indefinite but relief from such rev may be granted after 1 yr<sup>1</sup>.  
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: CI C crime §§2292 and 2299  
Sanctions Following a Conviction of Driving While on Habitual Offender Status:  
Imprisonment (Term): Not more than 5 yrs  
Mandatory Minimum Term of Imprisonment: 60 dys  
Fine (\$ Range): Not more than \$5,000 §2298  
Mandatory Minimum Fine (\$): N/A  
Licensing Actions (Specify): Relief from habitual offender status shall not be granted for at least 3 yrs from the date the offender would have been eligible.

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No): No  
BAC Chemical Test Is Given to the the Following Persons:  
Driver: N/A  
Vehicle Passengers: N/A  
Pedestrian: N/A

<sup>1</sup>A work-restricted license is available (see 29 MRSA §2296-B, sub. §1). However, a person is not eligible for this type of license, if they have been convicted of alcohol driving offenses, until they (1) complete the required license suspension periods under §§1311-A & 1312-B and (2) complete any mandatory driver education and/or drug abuse treatment programs. See 29 MRSA §2296-B, sub. 4.

STATE - Maine

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Laws Establishing the Minimum Ages

Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 21 (yr eff 1985)  
Minimum Age (Years) Possession: 21 (Applies to public places and to  
automobiles; employment exemption) 28 MRSA §303  
Minimum Age (Years) Consumption: 21 (Only applies to "On-sale premises") 28  
MRSA §§303 and 1058

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): Yes 69 MRSA §2002 (Note: Recovery under  
the dram shop act is limited to \$100,000 per  
person.)

"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation):

No

Dram Shop Actions--Social Hosts:

Possible statutory liability under 17 MRSA §2002

Other:

N/A

Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

Type of Criminal Action: None  
Term of Imprisonment: N/A  
Fine (\$ Range): N/A

Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Yes Susp or rev 28 MRSA §401  
Length of Term of License Withdrawal: Not specified in the statute

Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:

Type of Criminal Action: None  
Term of Imprisonment: N/A  
Fine (\$ Range): N/A

Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Yes Susp or Rev  
Length of Term License Withdrawal: Not specified in the statute

STATE - Maine

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Anti-Happy Hour Laws/Regulations: Yes 28 MRSA §305-A

Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:

Open Container Law (Yes/No): No

Anti-Consumption Law (Yes/No): No

STATE:

MARYLAND

General Comments:

See Annotated Code of Maryland.

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):  
Presumption (BAC Level):  
Types of Drugs/Drugs and Alcohol:

No  
No  
(1) Any Drug, (2) Any Combination of Drugs, (3) a Combination of One or More Drugs and Alcohol and (4) Any Controlled Dangerous Substance  
See §21-902(c)(1) & (d)

Other:

A BAC of 0.08 is prima facie evidence of driving while under the influence. A BAC of 0.13 is prima facie evidence of intoxication. (Code of Maryland, Courts and Judicial Proceedings §§10-309 and 10-307 and Transportation §21-902

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:  
Implied Consent Law:  
Arrest Required (Yes/No):  
Implied Consent Law Applies to  
Drugs (Yes/No):  
Refusal to Submit to Chemical Test  
Admitted into Evidence:  
Other Information:

Yes Tran. §16-205.2  
Yes  
No  
No (Specifically prohibited in both criminal and civil cases; see C&JP §10-309(a).)  
N/A Special Note: If a driver is involved in a DWI related accident which resulted in the death of another person, the driver shall be required to submit to a chemical test of their blood or breath Tran. §16-205.1(c)

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood:  
Urine:  
Other:

Yes (Trans §16-205.1)  
No  
No

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):  
Anti-Plea Bargaining Statute (Yes/No):  
Pre-Sentencing Investigation Law (PSI)  
(Yes/No):

No  
No  
No (Note: PSI required only for convictions of felony offs.)

Sanctions for Refusal to Submit to a BAC

Chemical Test:

Refusal to Take a Preliminary Breath Test:

Criminal Sanctions (Fine/Jail): None  
Administrative Licensing Action  
(Susp/Rev): None  
Other: N/A

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail): None  
Administrative Licensing Action  
(Susp/Rev): 1st refusal-Susp for 60 dys-6 mos; 2nd and subsequent refusals-Susp for 120 dys-1 yr; (Restricted license available; Tran. §16-205.1(f)(5)  
Other: None

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years, Etc.): 1.) Driving while under the influence (Misd), 1st off-Not more than 2 mos; Subsequent off-Not more than 1 yr; 2.) Driving while intoxicated (Misd), 1st off-Not more than 1 yr; Subsequent offs-Not more than 2 yrs (Trans. §§21-902 and 27-101)

Mandatory Minimum Term: For a subsequent Intoxicated Off. conviction (w/n 3 yrs.)-48<sup>1</sup> con. hrs.<sup>2</sup>

Fine:

Amount (\$ Range): 1.) Driving while under the influence, 1st off-Not more than \$500; Subsequent off-Not more than \$500; 2.) Driving while intoxicated, 1st off-Not more than \$1,000, Subsequent offs-Not more than \$1,000

Mandatory Min. Fine (\$): N/A

Other Penalties:

Community Service: For a subsequent Intoxicated Off. conviction (w/n 3 yrs.) in lieu of the mand. jail sentence-80 hrs. of community service.<sup>2</sup>

Restitution

(eg Victim's Fund) Optional when judgement's entrance is stayed and individual is placed on probation. Art. 27 §641

Other: And person placed on probation for any alcohol driving offense must participate in either an alcohol education or treatment program; see Art 27, §639(b).

<sup>1</sup>Imprisonment includes confinement in an inpatient rehabilitation or treatment center; see Tran. §27-101(j).

<sup>2</sup>Tran. §27-101(j)

STATE - Maryland

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Administrative Licensing Actions

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: None  
UVC Type of Provisions: None  
Other: N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action

(Susp/Rev):

1.) Tran. §§16-2-5 and 16-208. Driving while under the influence, 1st off-Susp; 2nd off within 3 yrs-Susp; 3rd off within 3 yrs-Rev; 2.) Driving while intoxicated - Rev: See Note at end of the criminal sanctions section.

Term of License Withdrawal

(Days, Months, Years, etc.):

1.) Driving while under the influence, 1st off-Not more than 60 dys; 2nd off w/n 3 yrs-Not more than 120 dys; 3rd off w/n 3 yrs-6 mos for a 1st rev, 1 yr for a 2nd rev, and 18 mos for 3rd and subsequent revs

Mandatory Minimum Term of

Withdrawal:

N/A

Other:

Rehabilitation:

Alcohol Education: Yes--Health-General §8-404 & Art. 27, §639(b)

Alcohol Treatment: Yes--Health-General §8-404 & Art. 27, §639(b)

Alcohol Education/

Treatment as an Altern-  
ative to Criminal

Licensing Actions

(Describe): Yes

Vehicle Impoundment/Confiscation:

Authorized by Specific

Statutory Authority: No

Terms Upon Which Vehicle

Will Be Released: N/A

Other:

If a person drives a motor veh while his or her license is suspended or revoked for an alcohol off, the registration of the motor veh he or she was driving may be suspended for not more than 120 dys Tran: §13-705.1

STATE - Maryland

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Miscellaneous Sanctions

Not Included Elsewhere:

Special Note: (1) A person who had been convicted of an alcohol driving off can have their license suspended/revoked either directly under Tran. sec. 16-205 or via the point system under Tran. secs. 16-401 et. seq. Under the point system, a driver is assessed the following points for alcohol driving offs convictions:  
Driving While Under the Influence (DUI) - 8 points  
Driving While Intoxicated (DWI) - 12 points

(1) Points assessed for any traffic law violation remain on a driver's record for two (2) yrs. A person who accumulates either eight (8) or 12 points at any time may have their license either suspended or revoked. (2) Under certain circumstances a person could have their license revoked via the point system for a second DUI off conviction instead of suspended as described for this State. Under Tran. Sec. 16-205(b), a person convicted of a second DUI off within three (3) yrs may have their license suspended for no more than 120 dys. However, if such a DUI conviction occurred within two (2) years of a prior one, the driver would have accumulated 16 points on their driver's record (8 points assessed for each DUI conviction) and would, be subject to license rev under the point system. Thus, the 120 dy susp period may only apply if the second DUI off conviction is more than two (2) but less than three (3) years after a prior off. (3) And, license susp periods for first and second DUI off convictions appear to be limited to 60 and 120 dys respectively via the provisions of Tran. Sec. 16-205(b). This is despite the fact that under Tran. Sec. 16-208(a), if a person who accumulates eight (8) points, they can have their license suspended for up to one (1) yr.



STATE - Maryland

Other Criminal Actions Related to Alcohol Use and Driving:

**Homicide by Vehicle:**

State Has Such Law/Type of Offense: Yes 1) Death caused by the operation of a veh "In a grossly negligent manner"- Misd 2) Death caused by operation of a motor veh while intoxicated-Misd Art. 27, §388

**Sanctions:**

**Criminal Sanction:**

Imprisonment (Term): 1) Operating "in a grossly negligent manner"-Not more than 5 yrs 2) Operating while intoxicated - Not more than 3 yrs

Mandatory Minimum Term: N/A

Fine (\$ Range): 1) Death caused by the operation of a veh "in a grossly negligent manner"-Not more than \$1,000 2) Death caused by operation of a motor veh while intoxicated-Not more than \$1,000

Mandatory Minimum Fine: N/A

**Administrative Licensing Action:**

Licensing Authorized and Type of Action: Rev via the point system

Length of Term of Licensing Withdrawal: 6 mos if this is a first rev; 1 yr if this is a 2nd rev; and 18 mos if this is a 3rd rev

Mandatory Action--Minimum Length of License Withdrawal: None Note: A restricted license may be issued

Other: N/A

**Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:**

**Sanction:**

**Criminal:**

Imprisonment (Term): 1st off (Misd) - Not more than 1 yr; 2nd and subsequent offs-Not more than 2 yrs; §§16-303 & 27-101

Mandatory Minimum Term of Imprisonment: None

Fine (\$ Range): 1st off-Not more than \$1,000; 2nd and subsequent offs-Not more than \$1,000

Mandatory Minimum Fine: None

STATE - Maryland

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Administrative Licensing Actions:

Type of Licensing Action  
(Susp/Rev):

1st off-Rev; 2nd and subsequent offs-  
Rev (via point system; rev under Tran;  
§16-303 results in 12 points being assessed  
against a driver; see Tran. §§16-402 & 16-404)  
See Other column under Vehicle  
Impoundment/Confiscation; Trans. §§16-303 and  
27-101.

Length of Term of License  
Withdrawal Action:

6 mos if a first rev; 1 yr if a second  
rev; 18 mos if this is a third rev

Mandatory Term of License  
Withdrawal Action:

Note: Under Tran. §16-405, a rev may be  
canceled or modified if a person's employment or  
opportunity for employment would be adversely  
affected.

Habitual Offender Laws:

State Has Such Law (Yes/No): No  
Grounds for Being Declared an  
Habitual Offender: N/A  
Term of License Rev While  
Under Habitual Offender Status: N/A  
Type of Criminal Offense if  
Convicted on Charges of  
Driving While on Habitual  
Offender Status: N/A  
Sanctions Following a Conviction of  
Driving While on Habitual Offender  
Status:  
Imprisonment (Term): N/A  
Mandatory Minimum Term of  
Imprisonment: N/A  
Fine (\$ Range): N/A  
Mandatory Minimum Fine (\$): N/A  
Licensing Actions (Specify): N/A

Other State Laws Related To Alcohol Use  
And Driving:

Laws Requiring BAC Chemical Tests on  
Those Persons Killed in Fatal Traffic  
Crashes:

State Has Such a Law (Yes/No): No  
BAC Chemical Test Is Given to the  
the Following Persons:  
Driver: N/A  
Vehicle Passengers: N/A  
Pedestrian: N/A

STATE - Maryland

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Laws Establishing the Minimum Ages  
Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 21 (yr eff: 1982)  
Minimum Age (Years) Possession: 21 (State law applies to prohibiting  
possession and consumption in public places;  
however, certain State laws applying to certain  
counties have additional restrictions; see  
generally) Art. 2B §118(a) et seq.  
Minimum Age (Years) Consumption: 21

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): No  
"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation): No Special Note: For a recent Maryland  
case denying liability in this area, see Felder  
v. Butler, 438 A.2d 494 (1981)  
Dram Shop Actions--Social Hosts: No (No cases)  
Other: N/A

Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

Type of Criminal Action: Misd (Art. 2B, §§69, 69A, 118, and 200)  
Term of Imprisonment: Not more than 2 yrs  
Fine (\$ Range): Not more than \$1,000

Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Susp or rev (Note: For licenses issued by  
the Comptroller a monetary compromise of not  
more than \$2,000 may be paid in lieu of susp or  
rev.)  
Length of Term of License Withdrawal: Generally 6 mos, but for certain counties it  
may be longer

STATE -- Maryland

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:

Type of Criminal Action:

Misd (Art. 2B §§69, 69A, 118, and 200)

Term of Imprisonment:

Not more than 2 yrs

Fine (\$ Range):

Not more than \$1,000

Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):

Susp or rev (Note: For licenses issued by  
the Comptroller, a monetary compromise of not  
more than \$2,000 may be paid in lieu of susp or  
rev.)

Length of Term License Withdrawal:

Generally 6 mos but for certain counties it  
may be longer

Anti-Happy Hour Laws/Regulations:

No

Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:

Open Container Law (Yes/No):

Yes- However, this law is limited to certain  
public parking areas Art. 2B §§207-214

Anti-Consumption Law (Yes/No):

Yes-Tran. §21-903; applies to drivers only.

STATE:

MASSACHUSETTS

General Comments:

See Massachusetts General Laws Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	No
Presumption (BAC Level):	Yes 0.10% C.90 §24(1)(e)
Types of Drugs/Drugs and Alcohol:	(1) Controlled Substance (such as marihuana, narcotic drugs and certain prohibited stimulant substances) & (2) Vapors of Glue See 90 §24(1)(a)(1)
Other:	N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	No
Implied Consent Law:	
Arrest Required (Yes/No):	Yes C.90 §24(f)
Implied Consent Law Applies to Drugs (Yes/No):	No
Refusal to Submit to Chemical Test Admitted into Evidence:	No (Specifically prohibited in both criminal and civil cases; see 90 §24(1)(e).)
Other Information:	If person refuses to submit to a chemical test after being arrested, the police officer immediately prepares a written report which is forwarded to the register who then suspends the person's license for 90 dys.

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood:	No (Unless brought in for treatment)
Urine:	No
Other:	N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	Yes C.90 §24(g)
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes C.90 §24(1)(a)

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	No
Administrative Licensing Action (Susp/Rev):	No
Other:	N/A

STATE - Massachusetts

Sanctions for Refusal to Submit to a BAC Chemical Test: (continued)

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail):	No
Administrative Licensing Action (Susp/Rev):	Susp of license for 90 dys C.90 §24(f) (Mandatory)
Other:	N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years, Etc.):	<u>1st off-Not more than 2 yrs; 2nd off (w/n 6 yrs)-7 dys-2 yrs; 3rd and subsequent offs - 60 dys-2 yrs; C.90 §24</u>
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Mandatory Minimum Term:	<u>1st off-No; 2nd off (w/n 6 yrs)-7 dys; 3rd and subsequent offs-60 dys (Work release is available; see also the rehabilitation columns)</u>
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Fine:

Amount (\$ Range):	<u>1st off-\$100-1,000; 2nd off (w/n 6 yrs)-\$300-1,000; 3rd and subsequent offs-\$500-1,000</u>
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Mandatory Min. Fine (\$):	None
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Other Penalties:

Community Service:	For any off a minimum of 30 hrs may be ordered by the Court as a condition of probation Sec C.90 §24(D)
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Restitution

(ie Victim's Fund)	None
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Other:	None
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Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:	No
UVC Type of Provisions:	No
Other:	N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action (Susp/Rev):	Rev for all offs C.90 §24(1)9b) & (1)(c)
Term of License Withdrawal (Days, Months, Years, etc.):	<u>1st off-1 yr; 2nd off (w/n 6 yrs)-2 yrs; 3rd &amp; subsequent offs (w/n 6 yrs)-5 yrs</u>

STATE - Massachusetts

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Mandatory Minimum Term of  
Withdrawal:

1st off-30 dys susp (If defendant is placed on probation and agrees to participate in an alcohol education program; otherwise the license is revoked a mandatory 1 yr period; see 90 §24D); 2nd Off (w/6 yrs)-1 yr; 3rd and subsequent Off (w/6 yrs)-2 yrs

Other:

Rehabilitation:

Alcohol Education:

Yes, 1st off-If the defendant consents, he may be placed on 1-yr probation conditioned on attending an alcohol education treatment or rehabilitation program. At Court's discretion such persons must pay a \$400 fee for placement in the program. C.90 §24(d); 2nd off - In lieu of imprisonment, defendant may serve at least 14 dys in a residential alcohol treatment program and be placed on 2 yrs probation. C.90 §24

Alcohol Treatment:

Yes see above

Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe):

Yes see above

Vehicle Impoundment/Confiscation:

Authorized by Specific  
Statutory Authority:

No

Terms Upon Which Vehicle  
Will Be Released:

N/A

Other:

N/A

Miscellaneous Sanctions

Not Included Elsewhere:

N/A

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes (Homicide by motor veh) C.90 §24(G)  
Sanctions:

Criminal Sanction:

Imprisonment (Term): 30 dys to 2 1/2 yrs

Mandatory Minimum Term: 30 dys

Fine (\$ Range): \$300 to 3,000

Mandatory Minimum Fine: \$300

STATE - Massachusetts

Other Criminal Actions Related to Alcohol  
Use and Driving: (continued)

Administrative Licensing Action:  
Licensing Authorized and  
Type of Action: Rev 90 §24(1)(1)(4)  
Length of Term of  
Licensing Withdrawal: 10 yrs  
Mandatory Action—Minimum  
Length of License  
Withdrawal: 10 yrs  
Other: N/A

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): 1st off-7 dys to 2 1/2 yrs; Subsequent offs  
- 10 dys to 1 yr; C.90 §23  
Mandatory Minimum Term  
of Imprisonment: 1st off-7 dys; Subsequent offs-10 dys  
Fine (\$ Range): 1st off-\$200-1,000  
Mandatory Minimum Fine: N/A

Administrative Licensing Actions:

Type of Licensing Action  
(Susp/Rev): 1st off-Susp; Subsequent offs-Rev  
Length of Term of License  
Withdrawal Action: 1st off-90 dys-6 mos  
Mandatory Term of License  
Withdrawal Action: 1st off-90 dys

Habitual Offender Laws:

State Has Such Law (Yes/No): Yes C.90 §22(f)

Grounds for Being Declared an  
Habitual Offender:

Three or more convictions, singularly or in  
combination of operating a motor veh while under  
the influence of intoxicating liquor in  
violation of C.90 §24(1)(a)

Term of License Rev While

Under Habitual Offender Status:

4 yrs (If the defendant has a proven hardship,  
a license may be issued after 1 yr)

Type of Criminal Offense if

Convicted on Charges of  
Driving While on Habitual  
Offender Status

Criminal off



STATE - Massachusetts

Other State Laws Related To Alcohol Use  
And Driving:

Sanctions Following a Conviction of  
Driving While on Habitual Offender  
Status:

Imprisonment (Term):	Not more than 2 yrs
Mandatory Minimum Term of Imprisonment:	N/A
Fine (\$ Range):	\$200-1,000
Mandatory Minimum Fine (\$):	\$200
Licensing Actions (Specify):	Rev

Laws Requiring BAC Chemical Tests on  
Those Persons Killed in Fatal Traffic  
Crashes:

State Has Such a Law (Yes/No): Yes C.38 §6(A)

BAC Chemical Test Is Given to the  
the Following Persons:  
Driver:

Yes The law requires medical examiners to  
submit to the police lab blood samples of  
drivers who die of injuries received in auto  
accidents within 4 hrs of the accident.

Vehicle Passengers:  
Pedestrian:

No  
Yes (Same rule for drivers who die (C.38  
§6(A)) Applies for pedestrians 16 yrs or older

Laws Establishing the Minimum Ages  
Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase:

21 138 §34 (yr eff: 1985)

Minimum Age (Years) Possession:

21 (Applies to the transportation of  
alcoholic beverages by an unattended person  
under 21; there is an exemption for persons 18  
and 19 for employment purposes) 138 §34C

Minimum Age (Years) Consumption:

N/A

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): No

"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation):

Yes, Adamain v. Three Sons, 353 Mass. 498,  
233 N.E. 2d 18 (Mass. 1967) and Cimino v. The  
Milford Keg, Inc., 431 N.E. 2d 920 (Mass.1982)

Dram Shop Actions-Social Hosts:  
Other:

No (No Cases)  
Note: An intoxicated patron may bring an action  
for personal injury damages against a licensee,  
if the damages were the result of the patron's  
having become intoxicated by the licensee; see  
O'Hanley v. Ninety-Nine, Inc., 421 N.E. 2d 920  
(1981) as modified by Ch. 231 §85S.

STATE - Massachusetts

Other State Laws Related To Alcohol Use  
And Driving: (continued)

**Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

Type of Criminal Action: (Misd sec C.138 §§62 and 69)  
Term of Imprisonment: Not less than 1 mo and not more than 1 yr  
Fine (\$ Range): Not less than \$50 and not more than \$500

**Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): No  
Length of Term of License Withdrawal: N/A

**Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:**

Type of Criminal Action: Misd (See C.138 and §34)  
Term of Imprisonment: Not more than 6 mos  
Fine (\$ Range): Not more than \$1,000

**Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Possibly (left up to the Court's  
discretion) C.138 §64  
Length of Term License Withdrawal: If revoked--1 yr C.138 §64

**Anti-Happy Hour Laws/Regulations:** Yes 204 CMR 4.00 (regulation)

**Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:**

Open Container Law (Yes/No): No  
Anti-Consumption Law (Yes/No): Yes (Applies to drivers only) C.90 §241

STATE:  
General Comments:

MICHIGAN  
See Michigan Compiled Laws Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	0.10% §257.625(2)
Presumption (BAC Level):	A BAC of greater than 0.07 but less than 0.10 is a presumption of impairment. A BAC of 0.10 or more is a presumption of driving while under the influence §257.625a(3)(b) & (c)
Types of Drugs/Drugs and Alcohol:	(1) A Controlled Substance and (2) a Combination of Liquor and a Controlled Substance. This applies to both under the influence and impaired offenses. See §§257.625(1) & 257.625b(1)
Other:	N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	Yes §257.625h
Implied Consent Law:	
Arrest Required (Yes/No):	Yes §257.625c(1)(a)
Implied Consent Law Applies to Drugs (Yes/No):	Yes 257.625c(1)
Refusal to Submit to Chemical Test Admitted into Evidence:	No Prohibited via case law; see People v. Hayes,
Other Information:	235 N.W.2d 182 (CA, 1975) Special Note: It appears that a test could be required via a court order; i.e. Consent by the driver is not required; see §257.625a(b)

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes §257.625c(1)
Urine:	Yes §257.625c(1)
Other:	N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes <sup>1</sup> §257.625(8)

<sup>1</sup>A victim has a right to submit a statement and have it made a part of the pre-sentence investigation report; see §13 of Act No 87 of the Public Acts of 1985.

STATE - Michigan

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Refusal to Take a Preliminary Breath Test:

Criminal Sanctions (Fine/Jail): No  
Administrative Licensing Action  
(Susp/Rev): No  
Other: Civil infraction §257.625h(5)

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail): N/A  
Administrative Licensing Action  
(Susp/Rev): 1st refusal- 6 mo susp (Note: A  
restricted/hardship license may be issued.); 2nd  
and subsequent refusals (w/n 7 yrs)-1 yr  
(mandatory susp) §257.323c and §257.625f(1)  
Other: N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years,  
Etc.):

1.) Driving while impaired (§257.625b) 1st off  
Misd-Not more than 90 dys; 2nd off (w/n 7  
 yrs.) Misd-Not more than 1 yr; 3rd and  
subsequent offs (w/n 10 yrs) -Not more than 1  
yr; Driving while under the influence, 1st off  
Misd - Not more than 90 dys; 2nd off Misd -  
Not more than 1 yr; 3rd and Subsequent offs  
(w/n 10 yrs) Felony - 1 to 5 yrs  
N/A

Mandatory Minimum Term:

Fine:

Amount (\$ Range):

1.) Driving while impaired (§257.625b) 1st  
off-Not more than \$300; 2nd off (w/n 7  
 yrs)-Not more than \$1,000; 3rd and  
subsequent offs (w/n 10 yrs)-Not more than  
\$1,000; 2.) Driving while under the  
influence (§257.625), 1st off-\$100 to 500;  
2nd off w/n 7 yrs-Not more than \$1,000; 3rd  
and subsequent off w/n a 10-yr period - Not more  
than \$1,000

Mandatory Min. Fine (\$): N/A

Sanctions Following a Conviction for a DMI Offense:  
(continued)

Other Penalties:

Community Service:	All offs - up to 12 dys
Restitution (eg Victim's Fund)	Yes <sup>1</sup>
Other:	No

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:	None
UVC Type of Provisions:	None
Other:	N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action  
(Susp/Rev):

1.) Driving while impaired 1st off-Susp; 2nd off (w/n 7 yrs)-Susp; 3rd and subsequent off (w/n 10 yrs)-Rev §257.625b(2), (3) & (4);  
2.) Driving while under the influence 1st off-Susp; 2nd off-Revoked; 3rd and subsequent offs (felony)-Revoked; §257.625(5) and (6)

Term of License Withdrawal

(Days, Months, Years, etc.):

1.) Driving while impaired 1st off-90 dys-1 yr; 2nd off (w/n 7 yrs)-6-18 mos; 3rd and subsequent off (w/n 10 yrs)-1 yr (5 yrs<sup>2</sup>);  
2.) Driving while under the influence 1st off-6 mos-2 yrs; 2nd off-1 yr; 3rd and subsequent offs (felony)-5 yrs

Mandatory Minimum Term of  
Withdrawal:

1.) Driving while impaired 1st off-(A restricted/hardship license may be issued; see §257.625b(2)); 2nd off (w/n 7 yrs)-60 dys (A restricted license may be issued after the 60 dy period; see §257.625b(3); 3rd and subsequent off (w/10 yrs)-1 yr (5 yrs<sup>1</sup>) §257.303(1)(d) and (e)(ii); 2.) Driving while under the influence, 1st off-A restricted hardship license may be issued §257.625(4); 2nd off-1 yr §257.303(1)(d)(i); 3rd and subsequent off (felony)-5 yrs §257.303(1) (d)(ii)

<sup>1</sup>The state has a victims' compensation fund and, in addition, provides for direct compensation to victims by the defendant via court ordered restitution. The defendant's compensation offsets any compensation a victim may receive via a civil action, insurance payment, or the State compensation fund; see §§18.351 et seq. and Act No. 89 of the Public Acts of 1985 (§771.3 of the Michigan Compiled Laws).

<sup>2</sup>If there has been a previous rev of any type within 7 yrs, the rev period is 5 yrs.

STATE - Michigan

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Other:

Rehabilitation:

Alcohol Education: Yes §§257.625(8) & 257.625b(6)  
Alcohol Treatment: Yes  
Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe): N/A

Vehicle Impoundment/Confiscation:

Authorized by Specific  
Statutory Authority: No  
Terms Upon Which Vehicle  
Will Be Released: N/A  
Other: N/A  
Miscellaneous Sanctions  
Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes Misd Death caused by the operation of a  
vehicle at an immoderate rate of speed or in a  
careless, reckless, or negligent manner but not  
wilfully or wantonly. §750.324

Sanctions:

Criminal Sanction:

Imprisonment (Term): Not more than 2 yrs  
Mandatory Minimum Term: N/A  
Fine (\$ Range): Not more than \$2,000  
Mandatory Minimum Fine: N/A

Administrative Licensing Action:

Licensing Authorized and  
Type of Action: Susp (6 points are also accumulated for  
each off) §257.319(1)(a)

Length of Term of  
Licensing Withdrawal: 90 dys-2 yrs

Mandatory Action--Minimum  
Length of License

Withdrawal: N/A  
Other: N/A

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): 1st off Misd-3 to 90 dys; 2nd and subsequent  
offs Misd-5 dys to 1 yr §257.904

STATE - Michigan

Other Criminal Actions Related to Alcohol Use and Driving:

Mandatory Minimum Term of Imprisonment: N/A  
Fine (\$ Range): 1st off-Not more than \$100; 2nd and subsequent offs-Not more than \$500  
Mandatory Minimum Fine: N/A  
Administrative Licensing Actions:  
Type of Licensing Action (Susp/Rev): Susp or rev  
Length of Term of License Withdrawal Action: The original license susp or rev is extended for a like period.  
Mandatory Term of License Withdrawal Action: The original license susp or rev is extended a like period.

Habitual Offender Laws:  
State Has Such Law (Yes/No): No  
Grounds for Being Declared an Habitual Offender: N/A  
Term of License Rev While Under Habitual Offender Status: N/A  
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: N/A  
Sanctions Following a Conviction of Driving While on Habitual Offender Status:  
Imprisonment (Term): N/A  
Mandatory Minimum Term of Imprisonment: N/A  
Fine (\$ Range): N/A  
Mandatory Minimum Fine (\$): N/A  
Licensing Actions (Specify): N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:  
State Has Such a Law (Yes/No): Yes  
BAC Chemical Test Is Given to the the Following Persons:  
Driver: Yes  
Vehicle Passengers: No  
Pedestrian: No

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Laws Establishing the Minimum Ages

Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase:	21 (yr eff: 1978) §436.33
Minimum Age (Years) Possession:	21 (Employment exemption) §436.33b(4)
Minimum Age (Years) Consumption:	21 (Applies to licensed premises) §436.33b(1)

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): Yes §436.22(5)

"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation):

Yes Jones v. Bourrie, 120 N.W.2d 236 (1963)  
and Longstreth v. Fitzgibbon, 335 N.W.2d 677  
(Mich. App. 1983)

Dram Shop Actions-Social Hosts:

Possible (Note: Case law on this issue is  
divided at the intermediate appellate court  
level. See Longstreth v. Fitzgibbon,  
335 N.W.2d 677 (1983) (for liability) and  
Koltz v. Persenaire, 360 N.W.2d 255 (1984)  
(against liability).)

Other:

N/A

Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

Type of Criminal Action:	Misd §§436.22(3) & 436.50
Term of Imprisonment:	Not more than 6 mos
Fine (\$ Range):	Not more than \$500

Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes, susp or rev §436.20
Length of Term of License Withdrawal:	Period of license susp or rev not specified in the statute (Note: A civil fine is of not more than \$300 may be assessed in addition to or in lieu of a susp or rev.)

Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:

Type of Criminal Action:	Misd §§436.22(3) & §436.33
Term of Imprisonment:	Not more than 6 mos §436.50
Fine (\$ Range):	Not more than \$500



STATE - Michigan

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages

Withdrawn (Yes/No):

Yes, susp or rev §436.20

Length of Term License Withdrawal:

Period of license susp or rev not specified in  
the statute (Note: A civil fine is of not more  
than \$300 may be assessed in addition to or in  
lieu of a susp or rev.)

Anti-Happy Hour Laws/Regulations:

Yes R 436.1438 (regulation)

Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:

Open Container Law (Yes/No):

Yes §436.34a

Anti-Consumption Law (Yes/No):

Yes-Driver and passengers §436.34 (The law  
states that "No alcoholic liquor shall be  
consumed on the public highways")

STATE:

MINNESOTA

General Comments:

See Minnesota Stat. Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	Yes 0.10% Minn. Stat. Annotated §§169.121(1)(d) & 169.123(5a)
Presumption (BAC Level):	N/A
Types of Drugs/Drugs and Alcohol:	(1) A Controlled Substance and (2) a Combination of Alcohol and a Controlled Substance See §169.121 subd. 1
Other:	N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	Yes (§169.121)
Implied Consent Law:	
Arrest Required (Yes/No):	See Special Note under Other Information column
Applied Consent Law Applies to Drugs (Yes/No):	Yes §169.123 subd. 2
Refusal to Submit to Chemical Test Admitted into Evidence:	Yes (Criminal Cases) §169.123 subd. 2(b)(5)
Other Information:	Special Note: A test can be given if: 1) A person has been lawfully placed under arrest under §169.121 2) If a person has refused to take preliminary screening test; 3) If PBT is refused or shows BAC of 0.10% or more; 4) If a person is involved in an accident resulting in property damage, personal injury, or death.

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes
Urine:	Yes
Other:	N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	Yes
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes §§169.124 and 169.126

Sanctions for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test: Criminal Sanctions (Fine/Jail):	N/A
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STATE - Minnesota

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Administrative Licensing Action (Susp/Rev):	License rev periods are the same as for implied consent law violations §§169.121 subd 6 & 169.123 subd 2
Other:	N/A
Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	N/A
Administrative Licensing Action (Susp/Rev):	Rev for not less than 1 yr (A limited license may be issued; see §§169.123 subd 9, & 171.30 subd 1 and §169.123 subd 4)
Other:	Special Note: If the person who refused to submit to the chemical test is under 18, their license is revoked for 1 yr or until they are 18 whichever is the greater period of time. (A limited license may be issued.)

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	
Term (Day, Month, Years, Etc.):	<u>1st off (Misd)</u> -Up to 90 dys; <u>2nd off</u> (w/n 5 yrs) <u>and subsequent offs</u> (w/n 10 yrs)(Gross Misd)-Up to 1 yr §§169.121 & 609.03; A DWI off causing injury where there is negligence (Felony) §609.21 subd-2 Not more than 3 yrs; §609.21 subd. 2
Mandatory Minimum Term:	N/A
Fine:	
Amount (\$ Range):	<u>1st off (Misd)</u> -Not more than \$700; <u>2nd off</u> (w/n 5 yrs.) <u>and subsequent offs</u> (w/n 10yrs.)(Gross Misd)-Not more than \$3,000; A DWI off causing injury where there is negligence (Felony)-Not more than \$5,000
Mandatory Min. Fine (\$):	N/A
Other Penalties:	
Community Service:	None
Restitution (eg Victim's Fund)	Yes Victim's Fund; see §§611A.01 of et seq.
Other:	N/A

<sup>1</sup>If the person is under 18, the rev period is six (6) mos or until they reach 18 whichever is the longer period of time.

<sup>2</sup>Special Note: Payments to all claimants shall not exceed \$50,000 per victim; see §611A.54

STATE - Minnesota

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: Yes 0.10% BAC Rev for 90 dys; however, a limited license is available §169.123 subd 4<sup>1</sup>  
UVC Type of Provisions: No  
Other: N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action

(Susp/Rev): All offs-Rev

Term of License Withdrawal

(Days, Months, Years, etc.): 1st off-Not less than 30 dys; 2nd off (w/n 5 yrs.)-Not less than 90 dys; 3rd off (w/n 5 yrs.)-Not less than 1 yr; 4th and subsequent offs-Not less than 2 yrs<sup>1</sup>

Mandatory Minimum Term of Withdrawal:

None (Special Note: Under §171.30 a limited license may be issued (1) for employment purposes or (2) for attendance at an alcohol treatment program.)

Other:

Rehabilitation:

Alcohol Education: Yes 169.124 and 169.126  
Alcohol Treatment: Yes 169.121(5) 169.124 and 169.126

Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe):

No The court may stay imposition of fine or jail sentence but not license rev if defendant submits to treatment at an authorized dependency facility, as provided by §§169.121 Subd.5 and 609.135 Subd. 1

Vehicle Impoundment/Confiscation:

Authorized by Specific

Statutory Authority: No

Terms Upon Which Vehicle

Will Be Released: N/A

Other: N/A (See Special Note on p. 3-169)

Miscellaneous Sanctions

Not Included Elsewhere:

<sup>1</sup>(Note: 90 additional dys are added to the above rev base periods if the DWI off involved either; a death or an injury.) Special Note: If the defendant is under 18 yrs of age and they are convicted of a DWI off, their license is revoked (1) until they reach 18; (2) for 6 mos; or (3) for the normal period of time for DWI offenders whichever is the greater period of time.)

STATE - Minnesota

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes (Felony) (Gross negligence causing death while under the influence of alcohol)  
\$609.21 sub. 1

Sanctions:

Criminal Sanction:

Imprisonment (Term): Not more than 5 yrs  
Mandatory Minimum Term: N/A  
Fine (\$ Range): Not more than \$10,000  
Mandatory Minimum Fine: N/A

Administrative Licensing Action:

Licensing Authorized and

Type of Action: Rev 169.11

Length of Term of

Licensing Withdrawal: Not specified by statute (Note: See footnote in the Post-DWI Conviction Licensing Section p. 3-158.)

Mandatory Action--Minimum

Length of License

Withdrawal:

60 dys \$171.30

Other:

Special Note: A limited license may be issued after the 60 dy minimum license rev period \$171.30 Subd. 2

Driving While License Suspended or Revoked

Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): Misd up to 90 dys \$171.24 \$609.03

Mandatory Minimum Term

of Imprisonment: None

Fine (\$ Range): Up to \$700

Mandatory Minimum Fine: None

Administrative Licensing Actions:

Type of Licensing Action

(Susp/Rev):

Special Note: A violation of §171.24 shall result in a person having their motor veh registration plates and certificate impounded under §168.041.

Length of Term of License

Withdrawal Action: N/A

Mandatory Term of License

Withdrawal Action: N/A

STATE - Minnesota

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Habitual Offender Laws:  
State Has Such Law (Yes/No): No  
Grounds for Being Declared an Habitual Offender: N/A  
Term of License Rev While Under Habitual Offender Status: N/A  
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: N/A  
Sanctions Following a Conviction of Driving While on Habitual Offender Status:  
Imprisonment (Term): N/A  
Mandatory Minimum Term of Imprisonment: N/A  
Fine (\$ Range): N/A  
Mandatory Minimum Fine (\$): N/A  
Licensing Actions (Specify): N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:  
State Has Such a Law (Yes/No): Yes  
BAC Chemical Test Is Given to the the Following Persons:  
Driver: Yes  
Vehicle Passengers: No  
Pedestrian: Yes, age 16 or older

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:  
Minimum Age (Years) Sale/Purchase: 19 (yr eff: 1976) §340A.503  
Minimum Age (Years) Possession: 19 (There is an exemption for the possession of alcoholic beverages in the home)  
Minimum Age (Years) Consumption: 19 (There is an exemption for the consumption of alcoholic beverages in the home)

STATE - Minnesota

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): Yes §340A.801

"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation):

Yes Trail v. Christian, 298 Minn. 101, 213  
N.W.2d 618 (1973) and Holmquist v. Miller, 352  
N.W.2d 47 (1984)

Dram Shop Actions--Social Hosts:

No See Cady v. Coleman, 315 N.W. 2d 593  
(1982)

Other:

N/A

Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

Type of Criminal Action:

Gross Misd. §§340A.502 and 340A.702(7) and  
609.03

Term of Imprisonment:

Up to 1 yr

Fine (\$ Range):

Not more than \$3,000 (An admin. fine of up  
to \$500 may also be imposed; see §340A.415)

Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages

Withdrawn (Yes/No):

Yes §340A.415

Length of Term of License Withdrawal:

Suspended for up to 60 days or revoked for  
an unspecified period of time

Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:

Type of Criminal Action:

Gross. Misd §§340A.503, & 340A.702(8), &  
609.03

Term of Imprisonment:

Up to 1 yr

Fine (\$ Range):

Not more than \$3,000 (An admin. fine of up  
to \$500 may also be imposed; see §340A.415)

Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages

Withdrawn (Yes/No):

Yes §340A.415

Length of Term License Withdrawal:

Suspended for up to 60 days or revoked for  
an unspecified period of time

STATE - Minnesota

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Anti-Happy Hour Laws/Regulations: No

Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:

Open Container Law (Yes/No): Yes §169.122(2) & (3)  
Anti-Consumption Law (Yes/No): Yes-Driver and passengers §169.122(1)



STATE:  
General Comments:

MISSISSIPPI  
See: Mississippi Code Annotated.

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	0.10% §63-11-30(1)
Presumption (BAC Level):	No
Types of Drugs/Drugs and Alcohol:	Any Substance §63-11-30(1)
Other:	No

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	Yes §63-11-5
Implied Consent Law:	
Arrest Required (Yes/No):	No
Implied Consent Law Applies to Drugs (Yes/No):	No
Refusal to Submit to Chemical Test Admitted into Evidence:	Yes (Criminal Cases) §63-11-41
Other Information:	Chemical test required on reasonable grounds and probable cause of DWI §63-11-5

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood:	Yes §63-11-5
Urine:	Yes §63-11-5
Other:	N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	Yes, a DWI charge may not be reduced if the BAC level of the defendant was 0.10% or more §63-11-39(3)
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes - Limited Sec. 63-11-30(2)(d)

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	None
Other:	N/A

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	Susp for 90 dys if there has been no previous conviction for a DWI off (§63-11-30). Susp for 1 yr if there has been a previous conviction for a DWI off (§63-11-30) (These susps are mandatory) §63-11-5 & 63-11-23
Other:	Special Note: A de novo Court trial may be held following administrative hearings on these susps; see §63-11-25

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years, Etc.):

1st Off-Not more than 24 hrs<sup>2</sup>; 2nd Off (w/5 yrs)-48 cons hrs<sup>2</sup>-1 yr<sup>1</sup>; 3rd Off (w/n 5 yrs)-30 dys<sup>2</sup>-1 yr; Conviction for a DWI off as above where there has been a chemical test refusal (§63-11-30(3))-Not more than 1 yr; Conviction for a DWI off where there has been negligence resulting in disfigurement, disability, etc., (felony) - Not more than 5 yrs (Sec. 13 of H.B. 182 in 1983) See generally §63-11-30

Mandatory Minimum Term:

No<sup>2</sup>

Fine:

Amount (\$ Range):

1st Off-\$200-500; 2nd Off (w/n 5 yrs)-\$400-1,000; 3rd Off (w/n 5 yrs)-\$500-1,000; Conviction for a DWI off as above where there has been a chemical test refusal (§63-11-30(3)) \$500-1,000

Mandatory Min. Fine (\$):

1st off - \$200; 2nd off (w/n 5 yrs) - \$400; 3rd off (w/n 5 yrs) - \$500; Conviction for a DWI off as above where there has been a chemical test refusal (§63-11-30(3)) - \$500; §99-19-25

Other Penalties:

Community Service:

Yes<sup>1</sup>

Restitution

(ie Victim's Fund)

None

Other:

None

<sup>1</sup>Community Service from 10 dys to 1 yr as an alternative to imprisonment.

<sup>2</sup>The law does not specifically prohibit suspending or placing persons on probation for the minimum imprisonment term; see also §99-19-23 which allows suspended sentences for misdemeanor offense

STATE - Mississippi

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:

Yes, limited to encouraging the speedy trial of DWI cases; where the offender has a BAC level of 0.10 if no trial is requested the license susp periods for implied consent violations apply; an accused offender is issued a temporary license by the police for up to 90 dys following license seizure after arrest; the temporary license if first issued by the arresting officer who takes the original license; the temporary license is initially valid for 30 dys but may be extended for two additional 30 dy periods by the Court. §63-11-23(2)

UVC Type of Provisions:

N/A

Other:

N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action

(Susp/Rev):

Susp - all offs

Term of License Withdrawal

(Days, Months, Years, etc.):

1st off-90 dys-1 yr; 2nd off (w/n 5 yrs)-2 yrs; 3rd and subsequent offs (w/n 5 yrs)-3 yrs

Mandatory Minimum Term of

Withdrawal:

1st off-90 dys (not less than 45 dys)<sup>1</sup>; 2nd off (w/n 5 yrs)-1 yr<sup>1</sup>; 3rd and subsequent offs (w/n 5 yrs)-1 yr<sup>1</sup>; DWI off where there has been a chemical test refusal - Same provided above depending upon whether the off is a 1st, 2nd or 3rd off; such susp is in addition to that imposed for chemical test refusal under the implied consent law.<sup>1</sup>

<sup>1</sup>Judicial review is not allowed for these susp actions by the licensing agency; see §63-11-26, as they are based on a final DWI adjudication. 1st Off - On completion of the alcohol education program whichever is longer; reduced to not less than 45 dys; restricted hardship license may be issued for the remaining 45 dys; 2nd and Subsequent Offs - License may be reinstated after the completion of an alcohol diagnostic and treatment program; the license cannot be reinstated until after one yr after susp or completion of the program whichever is longer (63-11-30(d)).

STATE - Mississippi

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Other:

Rehabilitation:

Alcohol Education: 1st off - Yes-required; See also §63-11-32  
Alcohol Treatment: 2nd and 3rd offs - Yes<sup>1</sup>  
Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe): No<sup>1</sup>

Vehicle Impoundment/Confiscation:

Authorized by Specific  
Statutory Authority: None  
Terms Upon Which Vehicle  
Will Be Released: N/A  
Other: N/A  
Miscellaneous Sanctions  
Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes, (Felony) where death is a result of a  
DWI violation and negligent action by the  
driver. See Sec. 13 of H.B. 182 as enacted in  
1983.

Sanctions:

Criminal Sanction:

Imprisonment (Term): Not more than 5 yrs  
Mandatory Minimum Term: N/A  
Fine (\$ Range): N/A  
Mandatory Minimum Fine: N/A

<sup>1</sup>See footnote 1 on p. 3-3.

STATE - Mississippi

Other Criminal Actions Related to Alcohol  
Use and Driving: (continued)

Administrative Licensing Action:  
Licensing Authorized and  
Type of Action: Rev §63-1-51  
Length of Term of  
Licensing Withdrawal: 1 yr  
Mandatory Action—Minimum  
Length of License  
Withdrawal: N/A  
Other: N/A

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Off:

Sanction:  
Criminal:  
Imprisonment (Term): Misd - 48 hrs-6 mos  
Mandatory Minimum Term  
of Imprisonment: None  
Fine (\$ Range): \$200 to 500  
Mandatory Minimum Fine: None

Administrative Licensing Actions:  
Type of Licensing Action  
(Susp/Rev): Susp  
Length of Term of License  
Withdrawal Action: 6-mo susp added to the original susp period  
Mandatory Term of License  
Withdrawal Action: 6-mo susp added to the original susp period

Habitual Offender Laws:  
State Has Such Law (Yes/No): No  
Grounds for Being Declared an  
Habitual Offender: N/A  
Term of License Rev While  
Under Habitual Offender Status: N/A  
Type of Criminal Offense if  
Convicted on Charges of  
Driving While on Habitual  
Offender Status: N/A

Other State Laws Related To Alcohol Use  
And Driving:

Sanctions Following a Conviction of  
Driving While on Habitual Offender  
Status:  
Imprisonment (Term): N/A

STATE - Mississippi

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Mandatory Minimum Term of Imprisonment:	N/A
Fine (\$ Range):	N/A
Mandatory Minimum Fine (\$):	N/A
Licensing Actions (Specify):	N/A
Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	Yes
BAC Chemical Test Is Given to the following Persons:	
Driver:	Yes §63-11-7
Vehicle Passengers:	No
Pedestrian:	No
Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	21 <sup>2</sup> (Year eff: 1986) §§67-1-81 & 67-3-53(b)
Minimum Age (Years) Possession:	21 <sup>1</sup> - (Applies to possession of alcoholic beverages, which contain more than 4% alcohol by weight, in a public place; see §§67-1-81)
Minimum Age (Years) Consumption:	N/A (See footnote No. 1 below)
Dram Shop Laws and Related Legal Actions:	
State Has a Dram Shop Law (Yes/No):	No
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation):	Yes, <i>Munford, Inc. v. Peterson</i> , 368 So. 2d 213 (Miss. 1979)
Dram Shop Actions - Social Hosts:	No See <i>Boutwell v. Sullivan</i> , 469 So.2d 526 (Miss., 1985)
Other:	N/A
Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
Type of Criminal Action:	Misd §67-1-71, 67-3-53, & 67-3-69
Term of Imprisonment:	Not more than 6 mos §§67-1-71, 67-3-53, & 67-3-69
Fine (\$ Range):	Not more than \$500 §§67-1-71, 67-3-53, & 67-3-69

<sup>1</sup>Note: Persons between the ages of 18 and 21 may possess and consume light wine and beer (4% or less alcoholic content by weight) with the consent of their parents or legal guardians; see sec. 4 of H.B. 2005 as enacted in 1985 (Eff. 1/10/86)

<sup>2</sup>Until 1/10/86 the sale/purchase age will be 18 for light wine and beer (4% or less alcoholic content by weight) and 21 for all other alcoholic beverages.

STATE - Mississippi

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):

Rev (A limited susp may be imposed in lieu  
of rev)

Length of Term of License Withdrawal: 2 yrs (Void for at least 1 yr-mandatory  
if beer or wine is given to an intoxicated  
person)

Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:  
Type of Criminal Action:

Selling alcoholic beverages to those under 21,  
1st off-Misd; 2nd and subsequent offs-  
Misd; Selling to a person under 21 beer and  
wine under 4% or less alcoholic content by  
weight-Misd; Miss. Code Ann. §§67-1-71,  
67-1-81, and 67-3-53.

Term of Imprisonment:

Selling alcoholic beverages to those under 21,  
2nd and subsequent offs-Not more than 1 yr;  
Selling to a person under 21 beer and wine under  
4% alcoholic content by weight-Not more than 6  
mos; Miss. Code Ann. §§67-1-71, 67-1-81, and  
67-3-53.

Fine (\$ Range):

Selling alcoholic beverages to those under 21,  
1st off- \$500-1,000; 2nd and subsequent  
offs- \$1,000-2,000; Selling to a person  
under 21 beer and wine 4% or less alcoholic  
content by weight-Not more than \$500<sup>1</sup>;  
Miss. Code Ann. §§67-1-71, 67-1-81, and 67-3-53.

<sup>1</sup>The following additional sanctions also apply to selling beer and light wine (4% or less  
alcoholic content by weight) to persons under 21: 1st Off-A fine of not more than \$500 and  
lic. rev. for 3 months; 2nd Off-(MIN 12 mos)-A fine of not more than \$1,000 and lic. rev. for  
6 mos; and 3rd & Subsequent Off-(MIN 12 mos)-A fine of not more than \$500 and a lic. rev. for  
1 yr. See §67-3-69(3); Eff 1/10/86

STATE - Mississippi

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):

Selling alcoholic beverages to those under 21,  
1st Off-Rev<sup>1</sup>; 2nd and subsequent Off-  
Automatic Rev; Selling to a person under 21  
beer and wine 4% or less alcoholic content by  
weight-Rev<sup>1</sup>

Length of Term License Withdrawal:

Selling alcoholic beverages to those under 21,  
1st off-2 yrs; 2nd and subsequent  
offs-Permanently; Selling to a person under  
21 beer and wine 4% or less alcoholic content by  
weight-2 yrs (void for at least 1  
yr--Mandatory)<sup>2</sup>

Anti-Happy Hour Laws/Regulations:

No

Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:

Open Container Law (Yes/No): No

Anti-Consumption Law (Yes/No): No

<sup>1</sup>A limited susp may be imposed in lieu of rev.  
<sup>2</sup>See footnote on p.3-179.



STATE:  
General Comments:

MISSOURI  
See Vernon's Annotated Missouri Statutes

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	0.10% §577.012
Presumption (BAC Level):	No
Types of Drugs/Drugs and Alcohol:	Drugged Condition See §577.010
Other:	A BAC of 0.10 or more is <u>prima facie</u> evidence of intoxication §577.037

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	No
Implied Consent Law:	
Arrest Required (Yes/No):	Yes §577.020(1)
Implied Consent Law Applies to Drugs (Yes/No):	Yes §577.020(1)
Refusal to Submit to Chemical Test Admitted into Evidence:	No Prohibited via case law; see Joseph v. Johnson, 539 S.W.2d 784 (CA, 1976)
Other Information:	N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes
Urine:	Yes
Other:	Saliva

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	No

Sanctions for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	N/A
Administrative Licensing Action (Susp/Rev):	N/A
Other:	N/A

STATE - Missouri

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail):  
Administrative Licensing Action  
(Susp/Rev):

N/A

1st Refusal- Rev 1 yr (A restricted hardship  
license may be issued); 2nd Refusal (w/n 5  
yrs)-Rev, 1 yr (Mandatory); §§302.309(5)(d)  
& 577.041

Other:

N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years,  
Etc.):

Intoxicated off, 1st off C1 B Misd-not more than  
6 mos; Per se off, 1st off C1 C Misd-not  
more than 15 dys; Intoxicated/illegal per se  
offs, 2nd off (w/n 5 yrs) C1 A Misd-not more  
than 1 yr; and subsequent off (w/n 10 yrs) -  
C1 D Felony - Not more than 5 yrs

Mandatory Minimum Term:

Intoxicated/illegal per se offs, 2nd off (w/n 5  
yrs)-48 cons hrs §§577.010 et seq;  
577.011: 558.011: 560.011: and 560.016.

Fine:

Amount (\$ Range):

Intoxicated off, 1st off-Not more than \$500;  
Per se off, 1st off-Not more than \$300;  
Intoxicated/illegal per se off, 2nd off (w/n 5  
yrs)-Not more than \$1,000; 3rd and  
subsequent offs (w/n 10 yrs)-Not more than  
\$5,000

Mandatory Min. Fine (\$):

None

Other Penalties:

Community Service:

In lieu of imprisonment, the defendant performs  
at least 10 dys (involving at least 40 hrs) of  
community service

Restitution

(eg Victim's Fund)

Victim's compensation fund; applies to all offs;  
however, injury must have been intentionally  
inflicted for the victim to be compensated  
(defendants pay \$26 to the Court; \$25 is  
remitted to the State for the fund and \$1 is  
retained by the Court for admin. expenses)  
§§595.010 and 575.045

Other:

For a first off, the sentence may be suspended  
provided the defendant is placed on probation  
for a minimum of two (2) yrs; see §577.010(2)

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:

Yes-0.13% BAC (1) If there has been no prior alcohol related enforcement conviction w/5 yrs, susp for 30 dys with a restricted license for an additional 60 dys<sup>1</sup>; (2) if there has been such prior contact (w/5 yrs), Rev for 1 yr<sup>2</sup>. However, if the defendant has accumulated sufficient points together with an illegal per se conviction, their license is suspended by the licensing agency for a mandatory 30 dy period which may be followed by restricted hardship driving privileges for 60 dys. See §302.304 sub. 4; exception: A court may still grant restricted hardship driving privileges for the entire susp period; see §302.309 sub. 3(5).

UVC Type of Provisions:

No

Other:

N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action  
(Susp/Rev):

Intoxicated off, 1st off-Point system 8 points;  
Per se off, 1st off-6 points<sup>3</sup>;  
Intoxicated/illegal Per se offs, 2nd off-12 points; 3rd and subsequent offs (w/n 5 yrs)-12 points

Term of License Withdrawal

(Days, Months, Years, etc.):

Intoxicated off, 1st off-30-90 dys<sup>1</sup>; Per se off, 1st off-30-90 dys<sup>1</sup>; Intoxicated/illegal per se offs, 2nd off-1 yr; 3rd and subsequent offs (w/n 5 yrs)-1 yr

<sup>1</sup>A court may grant restricted driving privileges for employment reasons; see §302.309 sub sec. 3. If the Court doesn't grant such privileges, the licensing agency must suspend the driver's license for a 30 dy mandatory period followed by restricted licensing/privileges for 6 dys.

<sup>2</sup>For second or subsequent (1) illegal per se offs under §577.012 (Not intoxicated offs under §577.010) or (2) admin. per se actions under §302.505 (read carefully §302.309 sub sec. 3), a court may grant restricted driving privileges for employment purposes provided the defendant has not received such privileges within the past 5 yrs.

<sup>3</sup>License susp action would occur only if the defendant had at least 2 more points on his/her record from some other driving off: i.e., a first illegal per se off conviction alone would not result in a license susp action. §§302.302, 302 and 302.304(4) and 302.304(b).

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Mandatory Minimum Term of  
Withdrawal:

Intoxicated off 1st off - None; Per se off  
1st off - None; Intoxicated/illegal per se  
offs 2nd off 1 yr<sup>2</sup>; 3rd and subsequent  
offs (w/5 yrs.) 1 yr<sup>2</sup>  
Note: Under the point system 8 points equals a  
susp. For a first suspension the time period is  
30 dys; for a 2nd it is 60 dys, and for a 3rd  
and it is 90 dys --- 12 points in 12 mos or 18  
points in 24 mos or 24 points in 36 mos equals  
rev for 1 yr.

Other:

Rehabilitation:

Alcohol Education:

Intoxicated off, 1st off-Yes<sup>1</sup>; Per se  
off-1st off-Yes<sup>1</sup>

Alcohol Treatment:

Intoxicated off, 1st off-Yes<sup>1</sup>; Per se off,  
1st off-Yes<sup>1</sup>

Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe):

N/A

Vehicle Impoundment/Confiscation:

Authorized by Specific  
Statutory Authority:

No

Terms Upon Which Vehicle  
Will Be Released:

N/A

Other:

N/A

Miscellaneous Sanctions

Not Included Elsewhere:

N/A

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense:

Yes (C) C felony) Veh homicide where death  
is caused by operating a motor vehicle while in  
an intoxicated condition or under the influence  
of controlled substances or drugs. §577.005

<sup>1</sup>Intoxicated off, 1st off and Per se off 1st off-Alternative to criminal sanctions; Ann. Mo.  
Stat. §577.049

<sup>2</sup>For second or subsequent (1) illegal per se offs under §577.012 (Not intoxicated offs under  
§577.010) or (2) admin. per se actions under §302.505 (read carefully §302.309 sec. 3), a court  
may grant restricted driving privileges for employment purposes provided the defendant has not  
received such privileges within the past 5 yrs.

STATE - Missouri

Other Criminal Actions Related to Alcohol  
Use and Driving: (continued)

Sanctions:

Criminal Sanction:

Imprisonment (Term): Not more than 7 yrs; \$577.005  
Mandatory Minimum Term: N/A  
Fine (\$ Range): Not more than \$5,000  
Mandatory Minimum Fine: N/A

Administrative Licensing Action:

Licensing Authorized and  
Type of Action: Rev - (12 points)  
Length of Term of  
Licensing Withdrawal: 1 yr  
Mandatory Action--Minimum  
Length of License  
Withdrawal: 1 yr  
Other: Victim's compensation fund; see §§595.010 et seq.

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): Not more than 1 yr (C1 A misd) 302.302 and  
302.321  
Mandatory Minimum Term  
of Imprisonment: 48 cons hrs (In lieu of imprisonment, the  
defendant performs at least 10 dys (involving at  
least 48 hrs of community service.)  
Fine (\$ Range): Not more than \$1,000  
Mandatory Minimum Fine: N/A

Administrative Licensing Actions:

Type of Licensing Action  
(Susp/Rev): Rev (12 points)  
Length of Term of License  
Withdrawal Action: 1 yr  
Mandatory Term of License  
Withdrawal Action: 1 yr

Habitual Offender Laws:

State Has Such Law (Yes/No): No  
Grounds for Being Declared an  
Habitual Offender: N/A  
Term of License Rev While  
Under Habitual Offender Status: N/A  
Type of Criminal Offense if  
Convicted on Charges of  
Driving While on Habitual  
Offender Status: N/A

STATE - Missouri

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Sanctions Following a Conviction of Driving While on Habitual Offender Status:

Imprisonment (Term):	N/A
Mandatory Minimum Term of Imprisonment:	N/A
Fine (\$ Range):	N/A
Mandatory Minimum Fine (\$):	N/A
Licensing Actions (Specify):	N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No): Yes; Ann. Mo. Stat. §§58.445, 58.447 and 58.449

BAC Chemical Test Is Given to the the Following Persons:

Driver:	Yes
Vehicle Passengers:	Yes
Pedestrian:	Yes

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase:	21 - Ann. Mo. Stat. §311.325 (Year Eff: 1945)
Minimum Age (Years) Possession:	21 - §312.407
Minimum Age (Years) Consumption:	N/A

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): Yes-A cause of action for personal injuries or death may only be brought against a licensee who has been convicted of selling alcoholic beverages either to a person under 21 years old or to an intoxicated individual provided such sale was the proximate cause of the injury or death. See §537.053.

"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation):

No (Prior case law abrogated via statute; see §537.053.)

Dram Shop Actions--Social Hosts:

No See §537.053

Other:

N/A

STATE - Missouri

Other State Laws Related To Alcohol Use  
And Driving: (continued)

**Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

**Type of Criminal Action:** Misd - §§311.310, 311.720, 311.880, 312.400  
and 312.500.  
**Term of Imprisonment:** Not more than 1 yr  
**Fine (\$ Range):** \$50-1,000

**Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

**License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):** Rev  
**Length of Term of License Withdrawal:** Not specified in the statute

**Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:**

**Type of Criminal Action:** Misd §§311.310, 311.880, 312.400 & 312.500.  
**Term of Imprisonment:** Not more than 1 yr  
**Fine (\$ Range):** \$50-1,000

**Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:**

**License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):** Rev  
**Length of Term License Withdrawal:** Not specified in the statute

**Anti-Happy Hour Law/Regulations:** No

**Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:**

**Open Container Law (Yes/No):** No  
**Anti-Consumption Law (Yes/No):** No

STATE:

MONTANA

General Comments:

See Montana Revised Codes Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):

0.10 §61-8-406

Presumption (BAC Level):

0.10 §61-8-401(3)(c)

Types of Drugs/Drugs and Alcohol:

(1) Any Drug and (2) a Narcotic Drug

See §61-8-401(b) & (c)

Other:

N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:

No

Implied Consent Law:

Arrest Required (Yes/No):

Yes §61-8-402

Implied Consent Law Applies to

Drugs (Yes/No):

No

Refusal to Submit to Chemical Test

Admitted into Evidence:

Yes §61-8-404(2) (Note: Constitutionality problems may exist with this statute.)

Other Information:

N/A

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood:

Yes §61-8-402(1)

Urine:

Yes §61-8-402(1)

Other:

N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):

No

Anti-Plea Bargaining Statute (Yes/No):

No

Pre-Sentencing Investigation Law (PSI)  
(Yes/No):

No (Note: PSI given if crime carries a  
prison sentence of 1 yr or more) 46-18-111

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test:

Criminal Sanctions (Fine/Jail):

N/A

Administrative Licensing Action

(Susp/Rev):

N/A

Other:

N/A



Sanctions for Refusal to Submit to a BAC Chemical Test: (continued)

Refusal to Take Implied Consent Chemical Test

Criminal Sanction (Fine/Jail):  
Administrative Licensing Action (Susp/Rev):

No

1st Refusa - Mandatory susp for 90 dys; 2nd or subsequent refusals w/n 5 yrs of a previous one; mandatory rev for 1 yr. The peace officer shall immediately seize the defendant's drivers license and it shall be forwarded to the driver licensing division; 61-8-402

Other:

N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years, Etc.):

DWI Off, 1st Off-24 cons hrs-60 dys; 2nd Off (w/n 5 yrs)-7 dys-6 mos; 3rd or sub. off (w/5 yrs)-30 dys-1 yr; 61-8-401 & 61-8-714(;  
Illegal Per Se Offs, 1st Off - Not more than 10 dys; 2nd Off (w/n 5 yrs) - 48 cons hrs to 30 dys; 3rd and subsequent offs (w/n 5 yrs) - 48 cons hrs to 6 mos; 61-8-722. Neg. Veh. Assult<sup>2</sup>-Not more than 1 yr; see sec. 1 of H.B. 210 as enacted in 1985.

Mandatory Minimum Term:

DWI Offs, 1st Off-24 cons hrs (may only be suspended for the defendant's physical and mental well-being); 2nd Off (w/n 5 yrs)-3 dys, 48 hrs of which must be served cons (may not be suspended except for the defendant's physical or mental well-being); 3rd or subsequent offs (w/n 5 yrs) - 10 dys, 48 hrs of which must be served cons (may not be suspended if the 3rd off occurred w/n 5 yrs of the first off); 61-8-714

Fine:

Amount (\$ Range):

DWI Off<sup>1</sup>, 1st Off-\$100-500; 2nd Off-(w/n 5 yrs)-\$300-500; 3rd and subsequent Off-(w/n 5 yrs)-\$500-1,000; Illegal Per Se Off, 1st Off-\$100-500; 2nd Off (w/n 5 yrs)-\$300-500; 3rd and subsequent Off- (w/n 5 yrs)-\$500-1,000 Neg. Veh. Assult-Not more than \$,000

Mandatory Min. Fine (\$):

None

<sup>1</sup>DWI offenses except illegal per se.

<sup>2</sup>Negligent Vehicle Assult-Driving while under the influence of alcohol that results in a serious bodily injury accident.

STATE - Montana

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Other Penalties:

Community Service:	N/A
Restitution (eg Victim's Fund)	N/A
Other:	N/A

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:	None
UVC Type of Provisions:	N/A
Other:	N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action

(Susp/Rev):

DWI offs<sup>2</sup>, 1st Off-Susp; 2nd off (w/n 5 yrs)-Rev; 3rd and subsequent off (w/n 5 yrs)-Rev; §§61-5-205(2) & 61-5-208; Illegal Per Se offs, 1st Off-Susp; 2nd Off (w/n 5 yrs)-Rev; 3rd and subsequent off (w/n 5 yrs)-Rev; §§61-5-205(2) & 61-8-722(4)<sup>1</sup>

Term of License Withdrawal

(Days, Months, Years, etc.):

DWI Offs<sup>2</sup>, 1st Off-6 mos; 2nd off (w/n 5 yrs)-1 yr; 3rd and subsequent off (w/n 5 yrs)-1 yr 61-5-208; Illegal Per Se Offs, 1st off-6 mos; 2nd off (w/n 5 yrs)-1 yr; 3rd and subsequent off (w/n 5 yrs)-1 yr §§61-5-205 and 61-5-208

Mandatory Minimum Term of  
Withdrawal:

DWI Offs, 1st Off-None (Under §61-11-101, a restricted probationary license may be issued in lieu of a susp on the condition that the person attends an alcohol treatment program if available<sup>3</sup>); 2nd off (w/n 5 yrs)-3 mos; 3rd and subsequent off (w/n 5 yrs)-3 mos; §61-5-208(2), 61-2-302(2) & (9)<sup>4</sup>; Illegal Per Se Offs - Same as for DWI offs

<sup>1</sup>Special Note: Under §61-11-203(2)(d) a person receives 10 points on their driving record for either a regular DWI or an illegal per se off conviction.

<sup>2</sup>DWI offs except illegal per se.

<sup>3</sup>Note: The original licensing action could also be stayed; see §61-2-302.

<sup>4</sup>After the mandatory periods provided and the driver participates in a rehabilitation and improvement program, either the original licensing action may be stayed or a probationary license may be issued.

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Other:

Rehabilitation:  
Alcohol Education: Yes all offs; (Either an alcohol education or alcohol treatment program is required. 61-8-714(4)); Illegal Per Se offs - For any illegal Per Se off there is a mandatory requirement for the defendant to participate in either an alcohol education or treatment program. See §61-8-722(5)

Alcohol Treatment: Yes  
Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe): 1st DWI Off-Yes (see §61-11-101)

Vehicle Impoundment/Confiscation:  
Authorized by Specific  
Statutory Authority: No  
Terms Upon Which Vehicle  
Will Be Released: N/A  
Other: N/A  
Miscellaneous Sanctions  
Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:  
State Has Such Law/Type of Off: No  
Sanctions:  
Criminal Sanction:  
Imprisonment (Term): N/A  
Mandatory Minimum Term: N/A  
Fine (\$ Range): N/A  
Mandatory Minimum Fine: N/A

Administrative Licensing Action:  
Licensing Authorized and  
Type of Action: N/A  
Length of Term of  
Licensing Withdrawal: N/A  
Mandatory Action—Minimum  
Length of License  
Withdrawal: N/A

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Other: Special Note: Even though this State does not have a vehicle homicide statute, it nevertheless, provides for a 1 yr license rev following a conviction for manslaughter resulting from the operation of a motor vehicle; only 3 mos of this action is mandatory a probationary restricted license may be issued for the remaining portion of the revocation period if a person complies with the terms of a driver improvement program. See §61-2-302(9)

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): Misd - 2 dys to 6 mos; §61-5-212

Mandatory Minimum Term of Imprisonment: None

Fine (\$ Range): Not more than \$500; §61-5-212

Mandatory Minimum Fine: None

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev): Susp or rev; §61-5-212

Length of Term of License Withdrawal Action: The period of such susp or rev is extended for an additional like period; §61-5-212

Mandatory Term of License Withdrawal Action: (Note: There may be no mandatory licensing action; see §61-2-302(9))

Habitual Offender Laws:

State Has Such Law (Yes/No): Yes

Grounds for Being Declared an Habitual Offender: Accumulation of 30 points in a 5 yr period

Term of License Rev While Under Habitual Offender Status: 3 yrs If a driver participates in a driver rehabilitation and improvement program after 1 yr of the revocation period has passed, a restricted probationary license may be issued; see §61-2-302(9)

Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: Misd; §§61-11-20) and 61-11-215

Sanctions Following a Conviction of Driving While on Habitual Offender Status:

Imprisonment (Term): Not more than 1 yr

STATE - Montana

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Mandatory Minimum Term of Imprisonment:	N/A
Fine (\$ Range):	Not more than \$1,000
Mandatory Minimum Fine (\$):	N/A
Licensing Actions (Specify):	N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No):	No
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	N/A
Vehicle Passengers:	N/A
Pedestrian:	N/A

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase:	19 - Note: For a case denying liability, see Mont. Code Ann. §16-3-301(a.) (Year Eff: 1979); §§16-3-301-(2)(a) & 16-6-305
Minimum Age (Years) Possession:	N/A; §§16-301-(2)(a) & 16-6-305
Minimum Age (Years) Consumption:	19 Exemptions for medical purposes and for parents giving alcoholic beverages to their children who are under 19 §§16-3-301-(2)(a) & 16-6-305

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No):	No
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation):	No (Note: For a case denying liability, see Range v. Watts, 589 P.2d 145 (1979) and 45 AM Jur. 2d, Intoxicating Liquors §554.)
Dram Shop Actions-Social Hosts:	No See Runge v. Watts, 589 P.2d 145 (1979)
Other:	N/A

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action:	Misd (Note: See Mont. Code Ann. §§16-3-301, 16-6-304, 16-6-305, 16-6-314, and 46-18-212.)
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STATE - Montana

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Term of Imprisonment:	Not more than 6 mos
Fine (\$ Range):	Not more than \$500 (Note: A civil fine may be assessed by the licensing agency and such fine is not to exceed \$1,500.)
Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Susp or rev (Note: See Mont. Code Ann. §16-4-406.)
Length of Term of License Withdrawal:	Not be more than 3 mos, the period of rev is not specified in the statute
Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:	
Type of Criminal Action:	Misd 16-6-304, 16-6-314, and 16-18-212
Term of Imprisonment:	Not more than 6 mos
Fine (\$ Range):	Not more than \$500 (Note: A civil fine may be assessed by the licensing agency and such fine is not to exceed \$1,500.)
Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Susp or rev
Length of Term License Withdrawal:	The period of susp may not be more than 3 mos; The period of rev. is not be specified in the statute
Anti-Happy Hour Laws/Regulations:	No
Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:	
Open Container Law (Yes/No):	Yes <sup>1</sup> ; §16-3-106(2)
Anti-Consumption Law (Yes/No):	Yes - Driver and passengers §16-3-106(2)

<sup>1</sup>The law states that "no common carrier or any other person shall open, break, or allow to be opened or broken any package or vessel containing liquor or drink or allow to be drunk or used any liquor there from while being carried or conveyed."

STATE:  
General Comments:

NEBRASKA  
See Revised Statutes of Nebraska

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	0.10% §39-669.07
Presumption (BAC Level):	No
Types of Drugs/Drugs and Alcohol:	Any Drug §39-669.07
Other:	No

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	Yes §39-669.08(3)
Implied Consent Law:	
Arrest Required (Yes/No):	Yes §39-669.08(2)
Implied Consent Law Applies to Drugs (Yes/No):	No
Refusal to Submit to Chemical Test Admitted into Evidence:	Yes (Criminal Cases) State v. Romell, 204 N.W.2d 573 (1973)
Other Information:	N/A

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood:	Yes
Urine:	Yes
Other:	N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	\$100 fine; No imprisonment §§28-106 & 39-669.08
Administrative Licensing Action (Susp/Rev):	No
Other:	No

STATE - Nebraska

Sanctions for Refusal to Submit to a BAC Chemical Test: (continued)

Refusal to Take Implied Consent Chemical Test

Criminal Sanction (Fine/Jail):

CI W misds, 1st off-7 dys + \$200 (Maximum); 2nd off-30 dys (48 hrs Minimum + \$500); 3rd and subsequent-3 mos-6 mos (maximum) (7 dys minimum) (CI W misds); §§28-106 & 39-669.08; Note: The court must impose the minimum sanction even if it suspends sentence or places a person on probation

Administrative Licensing Action (Susp/Rev):

1st off-Rev 6 mos (60 dy minimum); 2nd off-1 yr (6 mos minimum); 3rd off-Permanently (1 yr minimum) 28-106 and 39.669.08 Note: The Court must impose the minimum license revocation periods even if it suspends sentence or places a person on probation.

Other:

N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Incarceration:

Term (Day, Month, Years, Etc.):

1st off-7 dys; 2nd off-30 dys; 3rd and subsequent offs - 3 to 6 mos; (CI W misds) §28-106; §39-669.07

Mandatory Minimum Term:

1st off- None; 2nd off-48 hrs; 3rd and subsequent offs - 7 dys; (CI W misds) (The court must impose these minimum criminal sanctions even if it suspends sentence or places a person on probation.)

Fine:

Amount (\$ Range):

1st off- \$200; 2nd off-\$300; 3rd and subsequent offs- \$500

Mandatory Min. Fine (\$):

None

Other Penalties:

Community Service:

N/A

Restitution

N/A

(eg Victim's Fund)

N/A

Other:

Persons must attend and successfully complete a driver's education program of at least 8 hrs duration. §39-669.27

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:

None

UVC Type of Provisions:

None

Other:

N/A



STATE - Nebraska

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Post DWI Conviction Licensing Action:

Type of Licensing Action  
(Susp/Rev):

Rev (A conviction automatically accumulates sufficient points to have license revoked administratively) §39-669.07 (see also §60-424)

Term of License Withdrawal  
(Days, Months, Years, etc.):

1st off-6 mos; 2nd off-1 yr; 3rd off-  
Permanently §39-669.07

Mandatory Minimum Term of  
Withdrawal:

1st off-60 dys; 2nd off-6 mos; 3rd off -  
1 yr; §39-669.07 (The court must impose these minimum license revocation periods even if it suspends sentence or places a person on probation.)

Other:

Rehabilitation:

Alcohol Education:

Yes Convicted persons may be required to attend an alcoholism treatment program as a term of probation. §39-669.07

Alcohol Treatment:  
Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe):

Yes see above

N/A

Vehicle Impoundment/Confiscation:

Authorized by Specific

Statutory Authority:

No

Terms Upon Which Vehicle

Will Be Released:

N/A

Other:

N/A

Miscellaneous Sanctions

Not Included Elsewhere:

N/A

Other Criminal Actions Related to Alcohol  
Use and Driving:

Special Note: There are two veh homicide laws; one in the rules of road sec. of the Veh. Code) and the other in the Criminal Code

Homicide by Vehicle:

State Has Such Law/Type of Offense:

Yes (Veh. Code)Sec. 39-669.20 (Crim. Code) Secs. 28-306, 28-105, & 28-106 which provided for is a C1 I Misd (unintentional death caused while operating a motor veh in violation of law except as noted) and a C1 IV Felony (if homicide was the result of DWI, reckless driving or willful reckless driving)

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Sanctions:

Criminal Sanction:

Imprisonment (Term): 6 mos - Sec. 39-669.20 (Veh. Code); (Crim. Code) C1 I Misd-1 yr; C1 IV Felony-5 yrs Secs. 28-306, 28-105 and 28-106

Mandatory Minimum Term: None

Fine (\$ Range): \$500 - Sec. 39-669.20 (Veh. Code); C1 I Misd-\$1,000; C1 IV Felony-\$10,000

Mandatory Minimum Fine: None

Administrative Licensing Action:

Licensing Authorized and

Type of Action: Rev - Sec. 39-669.20 (Veh. Code); C1 I Misd-Rev; C1 IV Felony-Rev; (A person must also attend and successfully complete a driver's education course of at least 8 hrs duration.)

Length of Term of

Licensing Withdrawal: For all offenses - court discretion (but at least the mandatory period of time)

Mandatory Action--Minimum

Length of License

Withdrawal: For all offenses - 6 mos

Other: N/A

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): 1st off C1 III Misd-3 mos; 2nd off C1 III Misd-3 mos; If license permanently revoked, i.e., a 3rd or subsequent DWI off or 3rd or subsequent refusal to submit to a chemical test--A class IV felony-5 yrs

Mandatory Minimum Term of Imprisonment: None

Fine (\$ Range): 1st off, C1 III Misd-\$500; 2nd off, C1 III Misd-\$500; If license permanently revoked, i.e., a 3rd or subsequent DWI off or 3rd or subsequent refusal to submit to a chemical test, a C1 IV felony-\$10,000

Mandatory Minimum Fine: None

Administrative Licensing Actions:

Type of Licensing Action

(Susp/Rev):

1st off--Driver ordered not to operate any motor veh; 2nd off--Driver ordered not to operate any motor veh; Special Note: Under §60-430.06, a motor veh, operated by any person whose license has either been revoked or suspended, may be impounded for a period of time not exceeding 30 dys)

STATE - Nebraska

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Length of Term of License  
Withdrawal Action: 1st off-1 yr; 2nd off-2 yrs  
Mandatory Term of License  
Withdrawal Action: 1st off-1 yr; 2nd off-2 yrs

Habitual Offender Laws:  
State Has Such Law (Yes/No): No  
Grounds for Being Declared an  
Habitual Offender: N/A  
Term of License Rev While  
Under Habitual Offender Status: N/A  
Type of Criminal Offense if  
Convicted on Charges of  
Driving While on Habitual  
Offender Status: N/A  
Sanctions Following a Conviction of  
Driving While on Habitual Offender  
Status:  
Imprisonment (Term): N/A  
Mandatory Minimum Term of  
Imprisonment: N/A  
Fine (\$ Range): N/A  
Mandatory Minimum Fine (\$): N/A  
Licensing Actions (Specify): N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on  
Those Persons Killed in Fatal Traffic  
Crashes:  
State Has Such a Law (Yes/No): Yes  
BAC Chemical Test Is Given to the  
the Following Persons:  
Driver: Yes, if dead within 4 hrs of the accident.  
Vehicle Passengers: No  
Pedestrian: Yes, if at least 16 yrs old and died within  
4 hrs of the accident.

Laws Establishing the Minimum Ages  
Concerning Alcoholic Beverages:  
Minimum Age (Years) Sale/Purchase: 21; (Year Eff: 1985) §§53-103(23) & 53-180  
Minimum Age (Years) Possession: 21; Exemptions for possession in minor's  
"permanent place of residence" and for certain  
employment purposes by those 19 yrs old or  
older; §§53-102, 53-103(2), 53-103(23), &  
53-180.2  
Minimum Age (Years) Consumption: N/A

STATE - Nebraska

Other State Laws Related To Alcohol Use  
And Driving:

**Dram Shop Laws and Related Legal Actions:**

State Has a Dram Shop Law (Yes/No): **No**  
"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation): **No** (Note: For a case denying liability,  
see Holmes v. Circo, 244 N.W.2d 65 (1976))  
Dram Shop Actions-Social Hosts: **No** (No Cases)  
Other: **N/A**

**Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

Type of Criminal Action: **C1 I Misd; §53-180 §53-180.05 §28-106**  
Term of Imprisonment: **Not more than 1 yr**  
Fine (\$ Range): **Not more than \$1,000**

**Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): **Yes; §53-128 §53-1,104**  
Length of Term of License Withdrawal: **Indeterminate**

**Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:**

Type of Criminal Action: **C1 I Misd; §53-180 §53-180.05 §28-106**  
Term of Imprisonment: **Not more than 1 yr**  
Fine (\$ Range): **Not more than \$1,000**

**Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): **Yes; §53-128, §53-1,104**  
Length of Term License Withdrawal: **Indeterminate**

STATE - Nebraska

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Anti-Happy Hour Laws/Regulations:

Yes (regulation)

(Note: This regulation does not regulate the price of "single" drinks. It does, however, prohibit the selling of an unlimited quantity of drinks at one price or two or more drinks at the same price.)

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):

No

Anti-Consumption Law (Yes/No):

Yes - Driver and passengers; §53-186 (The consumption of alcoholic liquors inside vehs on public roadways is unlawful "unless authorized" by the State or local government having jurisdiction over the particular public roadway where the consumption is to take place.)

STATE:

NEVADA

General Comments:

See Nevada Revised Statutes

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):

Yes, 0.10% §484.379(1)(b)

Presumption (BAC Level):

Yes, 0.10% §484.381(1)

Types of Drugs/Drugs and Alcohol:

(1) A Controlled Substance or a Combination of Intoxicating Liquor and a Controlled Substance and (2) Any Chemical, Poison, Organic Solvent

and

Any Compound or a Combination of These.

See §484.379(2)

Other:

N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:

Yes 484 as amended by §2 of Ch.426 of the laws of 1983

Implied Consent Law:

Arrest Required (Yes/No):

Yes §484.383(1)

Implied Consent Law Applies to

Drugs (Yes/No):

Yes §484.383(1)

Refusal to Submit to Chemical Test

Admitted into Evidence:

Yes (Criminal Cases) §484.389

Other Information:

N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:

Yes §484.383(1)

Urine:

Yes §484.383(1)

Other:

Or other unspecified bodily substances  
§484.383(1)

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):

No

Anti-Plea Bargaining Statute (Yes/No):

Yes (Note: A DWI charge cannot be exchanged for a lesser charge unless there is no evidence to support such a DWI charge.) (Nev. Rev. Stat. §§484.379 and 484.379(5).) 484.379(5)

Pre-Sentencing Investigation Law (PSI)  
(Yes/No):

Yes Required only for felony offs (Nev. Rev. Stat. §176.135.)

Sanctions for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:

Criminal Sanctions (Fine/Jail):

No

Administrative Licensing Action

(Susp/Rev):

Rev-90 dys Laws of 1983, chapter 426 Sec. 3

Other:

N/A

STATE - Nevada

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail): None

Administrative Licensing Action  
(Susp/Rev):

1st Refusal - Rev 1 yr mandatory; 2nd or subsequent Refusals (w/n 7 yrs) - Rev 3 yrs mandatory; §484.385 and §3 of 426 of the laws of 1983

Other: N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

All DWI offs are misds

Term (Day, Month, Years,  
Etc.):

1st off-2 dys-6 mos; 2nd off (w/n 7 yrs) - 30 dys-6 mos; 3rd and subsequent off (w/n 7 yrs)-1-6 yrs; 484.379 et. seq. and §§10 & 11 of ch. 426 of the laws of 1983.

Mandatory Minimum Term:

1st off- 2 dys (1 dy if rehabilitation is taken); 2nd off (w/n 7 yrs) - 10-dys (5 dys if rehabilitation is taken); 3rd and subsequent off (w/n 7 yrs)-1 yr<sup>1</sup> (30 dys if rehabilitation is taken)

Fine:

Amount (\$ Range):

1st off-\$200-1,000; 2nd off (w/n 7 yrs)-\$500-1,000; 3rd and subsequent off (w/n 7 yrs)-\$2,000-5,000; Special Note: 1st off and 2nd off (w/n 7 yrs)-If rehabilitation is taken, the fine can be no more than the minimum fine indicated.

Mandatory Min. Fine (\$):

N/A

Other Penalties:

Community Service:

1st off-48 hrs (Alternative to imprisonment) (24 hrs, if rehabilitation is taken)

Restitution

(eg Victim's Fund)

Yes Via victims compensation fund; see §207.010 et seq.

Other:

None

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:

Yes --- 0.10 BAC Level; License rev 90 dys; §§3 & 15 of ch. 426 of the laws of 1983

UVC Type of Provisions:

No

Other:

N/A

<sup>1</sup>At least 48 hrs. must be served cons; Para. 4 of Sec. 10 of Ch. 426 of the laws of 1983.

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Note: If a license rev for a DWI off conviction follows one for an admin. per se action, the admin. per se rev is cancelled. The driver shall be given credit towards any DWI off conviction rev period for any time he/she was not eligible for a license under the admin. per se rev. Also, following the cancellation of the administrative per se rev, the legal provisions, concerning min. mandatory terms of license withdrawal and issuance of restricted licenses after a DWI off conviction, would apply.

Post DWI Conviction Licensing Action:

Type of Licensing Action (Susp/Rev):	<u>1st off-Rev; 2nd off (w/n 7 yrs)-Rev; 3rd and subsequent offs (w/n 7 yrs)-Rev; §483.460; (See also §§22 &amp; 23 of ch. 426 of the laws of 1983)</u>
Term of License Withdrawal (Days, Months, Years, etc.):	<u>1st off-90 dys<sup>1</sup> (restricted license allowed); 2nd off (w/n 7 yrs)-1 yr; 3rd and subsequent off (w/n 7 yrs.)-3 yr<sup>1</sup></u>
Mandatory Minimum Term of Withdrawal:	<u>1st off-45 dys<sup>1</sup>; 2nd off (w/n 7 yrs)-1 yr (§483.460(1)(b)(5)); 3rd and subsequent offs (w/n 7 yrs)-1 1/2 yrs</u>

Other:

Rehabilitation:	
Alcohol Education:	N/A
Alcohol Treatment:	<u>For all offs - Yes</u>
Alcohol Education/ Treatment as an Altern- ative to Criminal Licensing Actions (Describe):	<u>Yes<sup>1</sup> for all offs except death or bodily injury offs</u>
Vehicle Impoundment/Confiscation:	
Authorized by Specific Statutory Authority:	None
Terms Upon Which Vehicle Will Be Released:	N/A
Other:	N/A
Miscellaneous Sanctions Not Included Elsewhere: N/A	

<sup>1</sup>1st off - After half of the rev period has passed and the DWI offender has completed treatment a treatment program, (§§483.460(c)(2) and (3), a restricted license may be issued (§483.490(2)) and §§22 and 23 of Ch. 426 of the laws of 1983.



STATE - Nevada

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes, if death results from a DWI off;  
484.3795 (see Special Note under "Sanctions:  
Other")

Sanctions:

Criminal Sanction:

Imprisonment (Term): } to 20 yrs  
Mandatory Minimum Term: 1 yr (This sentence may not be suspended nor  
may probation be granted.)  
Fine (\$ Range): \$2,000-5,000  
Mandatory Minimum Fine: \$2,000 (This sentence may not be suspended  
nor may probation be granted.)

Administrative Licensing Action:

Licensing Authorized and  
Type of Action: Rev 483.460  
Length of Term of  
Licensing Withdrawal: 3 yrs (Note: For any non-alcohol related  
death caused by veh operations, the driver's  
license is revoked for 1 yr; see  
§483.460(1)(b)(1))

Mandatory Action--Minimum

Length of License  
Withdrawal: 3 yrs  
Other:

Special Note: NRS 484.3795 also applies to  
substantial bodily harm, as well as death,  
caused as a result of a DWI off.

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): Misd - 30 dys-6 mos 483.560  
Mandatory Minimum Term  
of Imprisonment: 30 dys  
Fine (\$ Range): \$500-1,000  
Mandatory Minimum Fine: \$500

Administrative Licensing Actions:

Type of Licensing Action  
(Susp/Rev): For driving on a suspended license--a susp; For  
driving on a revoked license--Rev; 483-560

STATE - Nevada

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Length of Term of License Withdrawal Action:	The original susp period extended a like period The original rev extended 1 yr 483-560
Mandatory Term of License Withdrawal Action:	The original susp period extended a like period; The original rev extended 1 yr; 483.560; (Note: The restricted license provisions of 483.490(2), as noted in the Sanction After DWI/Pre-Sentencing - DWI Term of License Withdrawal heading may apply.)
Habitual Offender Laws:	
State Has Such Law (Yes/No):	No
Grounds for Being Declared an Habitual Offender:	N/A
Term of License Rev While Under Habitual Offender Status:	N/A
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	N/A
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	N/A
Mandatory Minimum Term of Imprisonment:	N/A
Fine (\$ Range):	N/A
Mandatory Minimum Fine (\$):	N/A
Licensing Actions (Specify):	N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	Yes, see §484.394
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes
Vehicle Passengers:	Yes
Pedestrian:	Yes

STATE - Nevada

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Laws Establishing the Minimum Ages

Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase:	21 (Year Eff: 1933) §§202.020 & 202.055
Minimum Age (Years) Possession:	N/A §§202.020 & 202.055
Minimum Age (Years) Consumption:	21 Applies to any place where alcoholic beverages are sold. §§202.020 & 202.055

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): No

"Dram Shop Law" Concept Has Been

Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation):

No (Note: For a cases denying liability,  
see Hamm v. Carson City Nugget, 450 P.2d 358  
(Nev. 1969) and Yoscovitch v. Wasson, 645 P.2d  
975 (Nev. 1982))

Dram Shop Actions--Social Hosts:

No (No Cases)

Other:

N/A

Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

Type of Criminal Action:

No (Note: The State allows local  
governments broad power to license and regulate  
liquor retail establishments. Therefore, local  
laws may have been enacted to control the sale  
of alcoholic beverages to intoxicated persons.)

Term of Imprisonment:

N/A

Fine (\$ Range):

N/A

Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages

Withdrawn (Yes/No):

N/A

Length of Term of License Withdrawal: N/A

Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:

Type of Criminal Action:

Misd §§193.150 & 202.055

Term of Imprisonment:

Not more than 6 mos

Fine (\$ Range):

Not more than \$1,000

STATE -- Nevada

Other State Laws Related To Alcohol Use  
And Driving: (continued)

**Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:**

License to Serve Alcoholic Beverages

Withdrawn (Yes/No):

(Note: Controlled by local law.)

Length of Term License Withdrawal:

(Note: Controlled by local law.)

**Anti-Happy Hour Laws/Regulations:**

**No**

**Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:**

Open Container Law (Yes/No):

**No**

Anti-Consumption Law (Yes/No):

**Yes, driver only §484.378 (The law states  
that "it is unlawful for any person to drink any  
intoxicating liquor in a motor veh while such  
person is driving such motor veh upon a  
highway.")**

STATE: NEW HAMPSHIRE  
General Comments: See New Hampshire Revised Statutes Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): 0.10% 265:82(I)(b) & 265:82-a(II)  
Presumption (BAC Level): None  
Types of Drugs/Drugs and Alcohol: (1) Any Controlled Drug and (2) any Combination of Intoxicating Liquor and Controlled Drugs  
See §§265:82(I)(a) & 265:82-a(I)  
Other: A BAC level of 0.10% is prima facie evidence of intoxication. §265:89

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: Yes §265:92-a  
Implied Consent Law:  
Arrest Required (Yes/No): Yes §265:84  
Implied Consent Law Applies to  
Drugs (Yes/No): Yes §265:84  
Refusal to Submit to Chemical Test  
Admitted into Evidence: Yes (Criminal & Civil Cases) §265:88-a  
Other Information: N/A

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood: Yes §265:84  
Urine: Yes §265:84  
Other: N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No  
Anti-Plea Bargaining Statute (Yes/No): No (Note: The law requires to the filing of reports on plea bargaining agreements; these reports are, therefore, public records and are available for public inspection, 265:82-c)  
Pre-Sentencing Investigation Law (PSI)  
(Yes/No): No, see §651:4

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test:  
Criminal Sanctions (Fine/Jail): None  
Administrative Licensing Action  
(Susp/Rev): None  
Other: N/A  
Refusal to Take Implied Consent  
Chemical Test  
Criminal Sanction (Fine/Jail): None

Sanctions Following a Conviction for a DWI Offense:

Administrative Licensing Action (Susp/Rev):	<u>1st refusal</u> where there has been no previous DWI off-Rev for 90 dys; <u>2nd refusal</u> or a 1st refusal where there has been a previous DWI off-Rev for 1 yr; 265:92
Other:	Special Note: These Revs are mandatory. See Footnote No. 1
Criminal Sanctions:	
Imprisonment: Term (Day, Month, Years, Etc.):	<u>1st off-Violation</u> ; No term of imprisonment <u>2nd and subsequent offs</u> (w/n 7 yrs.) Misd-Not more than 1 yr; 265:82-b(I) & 651:2; Where there is either serious bodily injury or a 0.02% BAC level Misd.-Not more than 1 yr; 265:82-b(II) & 651:2
Mandatory Minimum Term:	<u>1st off-Violation</u> ; <u>2nd and subsequent off</u> (w/n 7 yrs)-Misd, 7 cons 24 hr periods; 265:82-b(III)
Fine: Amount (\$ Range):	<u>1st off-Violation</u> None, not more than \$1,000; <u>2nd and subsequent offs</u> (w/n 7 yrs) Misd-Not more than \$1,000; Where there is either serious bodily injury or a 0.20% BAC level Misd- \$350-1,000
Mandatory Min. Fine (\$):	Where there is either serious bodily injury or a 0.20% BAC level - Misd, \$350; 265:82-b(III)
Other Penalties:	
Community Service:	N/A
Restitution (ie Victim's Fund)	N/A
Other:	N/A
Administrative Licensing Actions:	
<u>Pre-DWI Conviction</u> Licensing Action:	
Administrative Per Se Law:	None
UVC Type of Provisions:	None
Other:	N/A
<u>Post DWI Conviction</u> Licensing Action:	
Type of Licensing Action (Susp/Rev):	<u>1st off-Rev</u> ; <u>2nd off</u> (w/n 7 yrs.)-Rev; <u>3rd and subsequent offs</u> (w/n 10 yrs)-Rev; Where there has been either a serious bodily injury or a BAC level of 0.20%-Rev; (Note: See rehabilitation section for this state.)

<sup>1</sup>A person holding an "at risk" probationary license whom police have reasonable cause to believe is driving with a BAC level of 0.03% and who refuses to take a BAC test, shall have their license suspended for 90 days. See 262:14-aIII. See also, miscellaneous sanctions not included elsewhere on P.3-200 below.

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Term of License Withdrawal  
(Days, Months, Years, etc.): 1st off-90 dys-2 yrs; 2nd off (w/n 7 yrs)-3 yrs; 3rd and subsequent offs (w/n 10 yrs)-Indefinitely; Where there has been either a serious bodily injury or a 0.20% BAC level -1 yr

Mandatory Minimum Term of Withdrawal: 1st off-90 dys; 2nd off (w/n 7 yrs)-3 yrs; 3rd and subsequent offs (w/n 10 yrs)-3 yrs; Where there has been either a serious bodily injury or a 0.20% BAC level-1 yr; 265:82-b(III)

Other:

Rehabilitation:

Alcohol Education: Yes (Must be completed before license can be restored for any alcohol related driving off; 263:65a)

Alcohol Treatment: N/A

Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe): N/A

Vehicle Impoundment/Confiscation:

Authorized by Specific  
Statutory Authority: None

Terms Upon Which Vehicle  
Will Be Released: N/A

Other: N/A

Miscellaneous Sanctions  
Not Included Elsewhere: N/A Any person who shall apply for reissuance of their license following an alcohol offense conviction is an "at risk" driver and their license shall be probationary. Such probationary license may be suspended for 90 days if the driver operates a motor vehicle with BAC level of 0.03%. See 263:14a I & II. Note: This 90 day license suspension may not be mandatory.

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Off: Yes - CI B felony applies only if death results from the reckless operation of a motor veh; 262-A:61 & 265:79

Sanctions:

Criminal Sanction:

STATE - New Hampshire

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Imprisonment (Term):	Not more than 7 yrs; 262-A:61
Mandatory Minimum Term:	N/A
Fine (\$ Range):	Not more than \$2,000; 262-A:61
Mandatory Minimum Fine:	N/A
Administrative Licensing Action:	
Licensing Authorized and Type of Action:	Rev
Length of Term of Licensing Withdrawal:	Up to 7 yrs
Mandatory Action--Minimum Length of License Withdrawal:	N/A
Other:	N/A

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term):	Misd - Not more than 1 yr; 263:364
Mandatory Minimum Term of Imprisonment:	7 cons 24 hrs periods
Fine (\$ Range):	Not more than \$1,000
Mandatory Minimum Fine:	N/A

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev):	N/A
Length of Term of License Withdrawal Action:	N/A
Mandatory Term of License Withdrawal Action:	N/A

Habitual Offender Laws:

State Has Such Law (Yes/No):	Yes see §§262-B:1 to 10, 262-23 and 262-B:21
Grounds for Being Declared an Habitual Offender:	3 serious offs or 12 moving violations within a 5-yr period
Term of License Rev While Under Habitual Offender Status:	4 yrs, 262-B:7
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	Note: Type of off is not specified in the statute. It is probably a C1 B felony with modifications in the penalty as provided in the habitual offender law.

Sanctions Following a Conviction of  
Driving While on Habitual Offender  
Status:

Imprisonment (Term):	1-5 yrs
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Sanctions Following a Conviction for a DWI Offense:  
(continued)

Mandatory Minimum Term of Imprisonment:	1 yr
Fine (\$ Range):	No fine stated in statute
Mandatory Minimum Fine (\$):	N/A
Licensing Actions (Specify):	No specific licensing action provided for this off

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No):	Yes, see §262-A:69-1. required as 265:93
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes
Vehicle Passengers:	No
Pedestrian:	Yes

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase:	21; (Year Eff: 1985) <sup>1</sup> §§175:6 & 175:8-a
Minimum Age (Years) Possession:	21; There are employment exemptions; see §175-8 for details <sup>1</sup> . §§175:6 & 175:8-a
Minimum Age (Years) Consumption:	N/A

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No):	No
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation):	Yes Burns v. Bradley, 419 A.2d 1069 (1980) which held that New Hampshire permits a plaintiff to maintain a common-law action against a liquor licensee for injuries received as a result of being served additional liquor while in an intoxicated state, 419 A.2d 1069, 1071 and Ramsey v. Anctil, 211 A.2d 900 (1965).
Dram Shop Actions--Social Hosts:	No (No Cases)
Other:	N/A

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action:	Misd §175:6
Term of Imprisonment:	Not more than 1 yr
Fine (\$ Range):	Not more than \$1,000

<sup>1</sup>Any person who has attained the age of 20 prior to June 1, 1985, may continue to purchase (or be sold) and to possess alcoholic beverages; see H.B. 65 as enacted 1985.

STATE -- New Hampshire

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages

Withdrawn (Yes/No): Yes

Length of Term of License Withdrawal: Susp, time period is not specified in the statute

Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:

Type of Criminal Action: Misd, 175:6

Term of Imprisonment: Not more than 1 yr

Fine (\$ Range): Not more than \$1,000

Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages

Withdrawn (Yes/No): Yes

Length of Term License Withdrawal: Susp; time period is not specified in the statute

Anti-Happy Hour Laws/Regulations: No

Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:

Open Container Law (Yes/No): No

Anti-Consumption Law (Yes/No): Possible - driver and passengers; §177:4 (The law states that "...liquor sold in a state store shall not be consumed in a public place."  
Note: The state is the only seller of sealed packaged alcoholic beverages; however, this would, it appears, not apply to packages purchased outside of the state.)

STATE:  
General Comments:

NEW JERSEY  
See New Jersey Statutes Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	0.10% §39:4-50(a)
Presumption (BAC Level):	N/A
Types of Drugs/Drugs and Alcohol:	(1) Narcotic, (2) Hallucinogenic or (3) Habit-Producing Drug See §39:4-50(a)
Other:	N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	No
Implied Consent Law:	
Arrest Required (Yes/No):	Yes §39:4-50.2
Implied Consent Law Applies to Drugs (Yes/No):	No
Refusal to Submit to Chemical Test Admitted into Evidence:	Yes (Criminal Cases) See State v. Tabisz, 322 A.2d 453 (Super., 1974)
Other Information:	N/A

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood:	N/A
Urine:	N/A
Other:	N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	No

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	N/A
Administrative Licensing Action (Susp/Rev):	N/A
Other:	N/A

STATE - New Jersey

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail): Fine: \$250-500 §39:4-50.4a

Administrative Licensing Action  
(Susp/Rev): Rev for 6 mos (Mandatory); Rev  
period is two (2) yrs (mandatory) if the driver  
has had a prior refusal; §§39:4-50.2 and  
39:4-50.4a

Other: N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years,  
Etc.): 1st off-Not more than 30 dys; 2nd off (w/n  
10 yrs)-48 cons hrs-90 dys; 3rd and  
subsequent offs (w/n 10 yrs)-Not less than 180  
dys; 39:4-50

Mandatory Minimum Term: 1st off-(See section on rehabilitation);2nd off  
(w/n 10 yrs)-48 cons hrs (see section on  
rehabilitation); 3rd and subsequent offs (w/n 10  
yrs)-90 dys<sup>3</sup>See section on rehabilitation

Fine:

Amount (\$ Range): 1st off-\$250-400<sup>2</sup>; 2nd off (w/n 10 yrs)  
-\$500-1,000<sup>2</sup>; 3rd and subsequent offs (w/n  
10 yrs)-\$1,000<sup>2</sup>; 39:4-50

Mandatory Min. Fine (\$): None

Other Penalties:

Community Service: 2nd off-30 dys<sup>1</sup>; 3rd and subsequent off  
(w/n 10 yrs)-Not more than 90 dys as an  
alternative to imprisonment; i.e. not more than  
90 dys of the 180 dy sentence may be served  
performing community service.

Restitution

(eg Victim's Fund) N/A

Other: N/A

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: None

UVC Type of Provisions: None

Other: N/A

<sup>1</sup>May be mandatory and in addition to the minimum term of imprisonment.

<sup>2</sup>In addition, defendants are charged a \$100 surcharge which goes into a drunk driving enforcement fund; ch. 4 laws of N.J. 1984

<sup>3</sup>Statute not specific; suspended sentence/probation may still be possible under various provisions of the criminal justice code.

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Post DWI Conviction Licensing Action:

Type of Licensing Action (Susp/Rev):	Rev (probably) The statute uses the terminology "forfeit his right to operate a motor veh."; 39:4-50
Term of License Withdrawal (Days, Months, Years, etc.):	<u>1st off-6 mos-1 yr; 2nd off-2 yrs; 3rd and subsequent offs-10 yrs</u>
Mandatory Minimum Term of Withdrawal:	<u>1st off-6 mos; 2nd off-2 yrs; 3rd and subsequent offs-10 yrs</u>

Note: A person convicted under DWI must satisfy the requirements of a program of alcohol education and rehabilitation approved by the Director of the Division of Motor Vehicles. Failure to satisfy such requirements shall result in a driver license rev or susp and continuation of rev or susp until such requirements are satisfied unless stayed by Court Order in accordance with Rule 7:8-2 of the N.J. Court Rules, 1969, or R.S. 3(5-22.)

Other:

Rehabilitation:	
Alcohol Education:	Yes
Alcohol Treatment:	1st Off-Yes <sup>1</sup> ; 2nd Off-Yes <sup>2</sup> ; 3rd and subsequent offs-Yes <sup>3</sup> §39:4-50
Alcohol Education/ Treatment as an Altern- ative to Criminal Licensing Actions (Describe):	See note above
Vehicle Impoundment/Confiscation:	
Authorized by Specific Statutory Authority:	No
Terms Upon Which Vehicle Will Be Released:	N/A
Other:	N/A
Miscellaneous Sanctions Not Included Elsewhere:	N/A

<sup>1</sup>There appears to be a mandatory treatment of not less than 48 hrs which is to be spent in an intoxicated driver resource center.

<sup>2</sup>The imprisonment term may be served in an intoxicated driver resource center.

<sup>3</sup>The imprisonment term may be served in an inpatient rehabilitation facility but not an intoxicated driver resource center.

STATE - New Jersey

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of off: Yes Crime of the third degree. Death must have resulted from the reckless operation of the veh. "Death by auto" §2C:11-5

Sanctions:

Criminal Sanction:

Imprisonment (Term): 3 to 5 yrs §2C:43-6(a)(3)  
Mandatory Minimum Term: 270 dys of imprisonment<sup>1</sup> if defendant was under the influence of alcohol, drugs, etc. at the time of the incident causing death

Fine (\$ Range): Not more than \$7,500 §2C:43-3(b)

Mandatory Minimum Fine: N/A

Administrative Licensing Action:

Licensing Authorized and Type of Action: N/A

Length of Term of Licensing Withdrawal: N/A

Mandatory Action--Minimum Length of License

Withdrawal: N/A

Other: Restitution; §2C:43-3

Driving While License Suspended or Revoked

Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): Not more than 90 dys §39:3-40

Mandatory Minimum Term of Imprisonment: None

Fine (\$ Range): \$500

Mandatory Minimum Fine: None

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev): Susp; §39:3-40

Length of Term of License Withdrawal Action: An additional period of not less than 1 yr nor more than 2 yrs; §39:3-40

Mandatory Term of License Withdrawal Action: 1 yr

<sup>1</sup>In lieu of the 270 days of mandatory imprisonment, the court may order a defendant to participate in a community service program for a minimum of 270 days; see §26:11-5.

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

## Habitual Offender Laws:

State Has Such Law (Yes/No):	No
Grounds for Being Declared an Habitual Offender:	N/A
Term of License Rev While Under Habitual Offender Status:	N/A
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	N/A

## Sanctions Following a Conviction of Driving While on Habitual Offender Status:

Imprisonment (Term):	N/A
Mandatory Minimum Term of Imprisonment:	N/A
Fine (\$ Range):	N/A
Mandatory Minimum Fine (\$):	N/A
Licensing Actions (Specify):	N/A

Other State Laws Related To Alcohol Use And Driving:

## Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No):	Yes	§26:2B-24
BAC Chemical Test Is Given to the the Following Persons:		
Driver:	Yes	
Vehicle Passengers:	Yes	
Pedestrian:	Yes	

## Laws Establishing the Minimum Ages

## Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase:	21	§§33:1-77 & 9:17B-1 (yr eff: 1983)
Minimum Age (Years) Possession:	21	§2C:33-15
Minimum Age (Years) Consumption:	21	§§9:17B-1 & 2C:33-15

## Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No):	No
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation):	

Rappaport v. Nichols, 156 A.2d 1 (1959); for social host liability, see Kelly v. Gwinnett, et al., 476 A.2d 1219 (1984)

Other:

N/A

STATE - New Jersey

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Dram Shop Actions--Social Hosts: Yes Kelly v. Gwinnett et al., 476 A.2d 564 (1982) Note: The decision in this case is limited to "one-on-one" situations where the host serves alcoholic beverages directly to a guest.

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:  
Type of Criminal Action: No specific State statute on this subject.  
Local law may make such action an off.  
Term of Imprisonment: N/A  
Fine (\$ Range): N/A

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:  
License to Serve Alcoholic Beverages Withdrawn (Yes/No): N/A  
Length of Term of License Withdrawal: N/A

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:  
Type of Criminal Action: Disorderly Person Off<sup>1</sup> §2C:43-3(c), 2C:43-8, and 33:1-77  
Term of Imprisonment: Not more than 6 mos  
Fine (\$ Range): Not more than \$1,000

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:  
License to Serve Alcoholic Beverages Withdrawn (Yes/No): Yes - Susp or Rev (Note: A compromise sum of money may be paid in lieu of susp.)  
Length of Term License Withdrawal: 1st off - 2 yrs §33:1-31

<sup>1</sup>See S.B. 2312 enacted in 1985.



Other State Laws Related To Alcohol Use  
And Driving: (continued)

Anti-Happy Hour Laws/Regulations:

Yes (regulation - NJAC 13:2-23.16)  
(Note: This regulation does not regulated  
the price of "single" drinks. It does,  
however, prohibit the selling of an unlimited  
quantity of drinks at one price or charging  
one price for two or more drinks.)

Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:

Open Container Law (Yes/No):

No

Anti-Consumption Law (Yes/No):

Yes - Drivers and passengers; prohibits the  
consumption of alcoholic beverages by either a  
driver or passenger while the veh is being  
operated; there are exceptions for certain vehs  
for hire, Ch. 307, 1983 laws.

STATE:

NEW MEXICO

General Comments:

See New Mexico statutes 1978 Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	0.10% §66-8-102C
Presumption (BAC Level):	0.10% §66-8-110B(3)
Types of Drugs/Drugs and Alcohol:	Any Drug §66-8-102(B)
Other:	N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	No
Implied Consent Law:	
Arrest Required (Yes/No):	Yes §66-8-107
Implied Consent Law Applies to Drugs (Yes/No):	No
Refusal to Submit to Chemical Test Admitted into Evidence:	Yes (Criminal & Civil (Possible) Cases) See McKay v. Davis, 653 P.2d 860 (1982)
Other Information:	Special Note: A driver may be required to submit to a chemical test based on a search warrant issued by a court upon probable cause that the driver has killed or greatly injured another person while operating a motor veh under the influence of alcohol; §66-8-111A

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood:	Yes §66-8-107
Urine:	No
Other:	No

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No (Special Note: The police officer must charge a driver with committing a DWI off if the driver's BAC level is 0.10 or more; see §66-8-110(C))
Anti-Plea Bargaining Statute (Yes/No):	Yes §§66-8-102.1 if a guilty plea is entered it must be to one of subsections of the DWI statute if BAC=0.15%
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes Note: DWI-PSI screening is discretionary; see §66-8-102G.

STATE - New Mexico

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test:

Criminal Sanctions (Fine/Jail): N/A  
Administrative Licensing Action  
(Susp/Rev): N/A  
Other: N/A

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail): No  
Administrative Licensing Action  
(Susp/Rev): 1 yr rev mandatory; §66-8-111B  
Other: No

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years,  
Etc.):

1st off-30-90 dys; 2nd and subsequent  
offs-90 dys - 1 yr 66-8-102; Great bodily  
injury where driver was intoxicated, 3rd degree  
felony - 3 yrs; §§66-8-101 & 31-18-15  
(Could be 4 yrs if §31-18-15.1 is applied)

Mandatory Minimum Term:

1st off-No; 2nd and subsequent offs-48  
cons hrs<sup>1</sup> 66-8-102 and 66-8-102; Great  
bodily injury where driver was intoxicated, 3rd  
degree felony 1 yr (See §31-18-15.1)

Fine:

Amount (\$ Range):

1st off-\$300-500; 2nd and subsequent  
offs-Not more than \$1,000 66-8-102; Great  
bodily injury where driver was intoxicated, 3rd  
degree felony-Not more than \$5,000

Mandatory Min. Fine (\$):

1st off-No; 2nd and subsequent offs-No

<sup>1</sup>This mandatory sanction applies only if the second or subsequent off occurred within five (5) yrs of a first or prior offense.

Note: A person who, while operating a vehicle while under the influence of alcohol/drugs or while violation §66-8-113, injuries to a pregnant woman is guilty of a third degree felony; see §§66-8-101.1 & 31-18-15.

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Other Penalties:

Community Service: N/A

Restitution  
(eg Victim's Fund) Yes, 31-17-1 (Restitution is to be paid by  
the defendant<sup>1</sup>)

Other: N/A

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:

1. For persons 18 yrs old and above who have a  
BAC level of 0.10% or more; 1st Admin per se off  
- 90 dys mandatory license rev (§66-8-  
111c(1)); 2nd and subsequent admin. per se offs  
where a person has also been convicted of a  
second or subsequent DWI off - 1 yr  
mandatory license rev (66- 5-29C); 2. For  
persons under 18 yrs of age who have a BAC level  
of 0.05 or more: 1st Admin. Per Se off - 6  
mos mandatory license rev §§66-8-111c(2); 2nd  
Admin Per Se offs - 1 yr mandatory license  
rev §§66-8-111(B)

UVC Type of Provisions: No

Other: N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action

(Susp/Rev): 1st off-Rev; 2nd off-Rev §§66-5-29 &  
66-5-32(B); 3rd off-Rev §66-5-5(D)

Term of License Withdrawal

(Days, Months, Years, etc.): 1st off-1 yr; 2nd off-1 yr; 3rd off-5 yrs

Mandatory Minimum Term of

Withdrawal: 1st off-(See Special Note); 2nd off-1 yr;  
3rd off-5 yrs

Special Note: If a person has been convicted of  
a 1st DWI off but not subject to the mandatory  
license provisions of the admin per se law, they  
may obtain a restricted license. Such a  
license, however, is not available where there  
has been a consent decree based on a filing of  
any DWI charge. §66-5-35A.

<sup>1</sup>Restitution appears to be required if a sentence is either suspended or deferred; see  
§§31-17-1B & 31-20-6

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Other:

Rehabilitation:

Alcohol Education:

1) Yes §66-5-29, §43-2-1 et seq. After presentence investigation, a trial court, in its discretion, may order a first offender to attend a "driving-while-intoxicated school," also called the driver rehabilitation program, approved by both the Court and the Division of Motor Vehicles. 2) 1st offender may be allowed to attend driver rehabilitation program and if successfully completed Court may dismiss DWI charge and it is not a conviction, but does not constitute a first off.

Alcohol Treatment:

N/A

Alcohol Education/  
Treatment as an Altern-

ative to Criminal  
Licensing Actions

(Describe):

N/A

Vehicle Impoundment/Confiscation:

Authorized by Specific

Statutory Authority:

No

Terms Upon Which Vehicle

Will Be Released:

N/A

Other:

N/A

Miscellaneous Sanctions

Not Included Elsewhere:

N/A

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of off:

Yes-Misd or Death where the driver was  
intoxicated-3rd degree felony §66-8-101

Sanctions:

Criminal Sanction:

Imprisonment (Term):

Misd-Not more than 90 dys; 3rd degree  
felony-3 yrs (Could be 4 yrs if §31-18-15.1  
is applied) §§31-18-15 & 66-8-7B

Mandatory Minimum Term:

3rd degree felony-1 yr (See §31-18-15.1)

Fine (\$ Range):

Misd-Not more than \$100; 3rd degree  
felony-Not more than \$5,000

Mandatory Minimum Fine:

None

Administrative Licensing Action:

Licensing Authorized and

Type of Action:

Misd-Susp; 3rd degree felony-Susp  
§§66-5-29 & 66-5-20

Length of Term of

Licensing Withdrawal:

Misd-1 yr; 3rd degree felony-1 yr

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Mandatory Action--Minimum Length of License	
Withdrawal:	3rd degree felony-1 yr
Other:	Misd - Restitution; 3rd degree felony- Restitution (Victim restitution is either via the offender or via a State reparations fund; see §§31-17-1 & 31-22-1 et seq.
<b>Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:</b>	
Sanction:	
Criminal:	
Imprisonment (Term):	2 dys-6 mos §66-5-39
Mandatory Minimum Term of Imprisonment:	No
Fine (\$ Range):	\$0-500 §66-5-39
Mandatory Minimum Fine:	\$150 §66-5-39(A)
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	Rev §66-5-39
Length of Term of License Withdrawal Action:	For driving while suspended - an additional suspension period equal to the original period. For driving while revoked - an additional revocation period of one (1) year.
Mandatory Term of License Withdrawal Action:	The above additional suspension/revocation periods appear to be mandatory.
<b>Habitual Offender Laws:</b>	
State Has Such Law (Yes/No):	No, but §66-5-5 does, prevents anyone who has been convicted of DWI 3 or more times since 1955 from having or applying for a drivers license for 5 yrs.
Grounds for Being Declared an Habitual Offender:	N/A
Term of License Rev While Under Habitual Offender Status:	N/A
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	N/A
Sanctions Following a Conviction of	

STATE - New Mexico

Other Criminal Actions Related to Alcohol  
Use and Driving: (continued)

Driving While on Habitual Offender  
Status:

Imprisonment (Term):	N/A
Mandatory Minimum Term of Imprisonment:	N/A
Fine (\$ Range):	N/A
Mandatory Minimum Fine (\$):	N/A
Licensing Actions (Specify):	N/A

Other State Laws Related To Alcohol Use  
And Driving:

Laws Requiring BAC Chemical Tests on  
Those Persons Killed in Fatal Traffic  
Crashes:

State Has Such a Law (Yes/No):	Yes
BAC Chemical Test is Given to the the Following Persons:	
Driver:	Yes, §66-8-108
Vehicle Passengers:	Yes
Pedestrian:	Yes

Laws Establishing the Minimum Ages  
Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase:	21 (Year Eff: 1934) §§60-3A-3(0), 60-78-1 & 60-78-1.1
Minimum Age (Years) Possession:	21 (Exemption when the minor is accompanied by a parent or guardian.) §§60-3-A-(30), 60-78-1 & 60-78-1.

STATE - New Mexico

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Minimum Age (Years) Consumption: 21 (Apply to allowing a minor accompanied by either a parent or legal guardian, to consume alcoholic beverages in a licensed establishment.) §§60-3A-(30), 60-78-1 & 60-78-1.1

Dram Shop Laws and Related Legal Actions:  
State Has a Dram Shop Law (Yes/No): Yes<sup>1</sup> §41-11-11&2  
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation): Yes, Lopez v. Maze, 651 P.2d 1269 (N.M. 1982) and MRC Prop. v. Gries 652 P.2d 732 (N.M., 1982)<sup>2</sup>  
Dram Shop Actions--Social Hosts: Yes §41-11-1(E) Liability is based upon the host providing alcoholic beverages to the quest in reckless disregard of the rights of others, including the guest.  
Other: No

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:  
Type of Criminal Action: Misd 60-7A-16 & 60-7A-25  
Term of Imprisonment: 0-7 mos  
Fine (\$ Range): \$0-300 (If corporation, \$0-1,000)

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:  
License to Serve Alcoholic Beverages Withdrawn (Yes/No): Yes 60-7A-25 & 60-7B-1  
Length of Term of License Withdrawal: 2 yrs

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:  
Type of Criminal Action: Misd  
Term of Imprisonment: 0-6 mos  
Fine (\$ Range): \$100 (Mandatory minimum)

<sup>1</sup>Law limits liability for social hosts to cases involving serving alcoholic beverages in reckless disregard of the rights of others and increases the burden of evidence needed to hold liquor license establishments liable for serving alcoholic beverages to intoxicated persons.

<sup>2</sup>Note: 41-11-1(H) in effect abrogates the holding in these cases.



STATE -- New Mexico

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Yes  
Length of Term License Withdrawal: 2 yrs

Anti-Happy Hour Laws/Regulations: No

Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:

Open Container Law (Yes/No): No  
Anti-Consumption Law (Yes/No): No

STATE:

NEW YORK

General Comments:

See McKinney's Consolidated laws of New York  
Citations are to the veh and traffic law unless  
otherwise stated.

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):

Yes, 0.10% §1192.2

Presumption (BAC Level):

N/A

Types of Drugs/Drugs and Alcohol:

A Controlled Substance See §§114-a and 1192(4)  
of the V&T Law and §3306 of the Public Health  
Law.

Other:

A BAC of 0.05-0.07% is relevant evidence of  
being impaired; and a BAC of 0.08-0.10% is prima  
facie evidence of impairment; §1195(c) and (b)

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:

Yes (Note: Applies to drivers involved in  
accidents and traffic law violations; §1193(a))

Implied Consent Law:

Arrest Required (Yes/No):

Yes §1194

Implied Consent Law Applies to

Drugs (Yes/No):

Yes §1194 sub. 1

Refusal to Submit to Chemical Test

Admitted into Evidence:

Yes (Criminal and Civil Cases) §1194(4)

Other Information:

Special Note: Under §1194-a, a driver may be  
compelled to submit to a chemical test of their  
blood for alcoholic content if they have been  
involved in an accident in which there has been  
a fatality related to a DWI off

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood:

Yes §1194(1)

Urine:

Yes §1194(1)

Other:

Yes, Saliva §1194(1)

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):

No

Anti-Plea Bargaining Statute (Yes/No):

Yes (Note: Plea bargaining allowed to one  
of the two alcohol offs) §1196.2

Pre-Sentencing Investigation Law (PSI)

(Yes/No):

Yes (Required for felony convictions)  
(C.P.L. §390.20.1 et seq.)

STATE - New York

Sanctions for Refusal to Submit to a BAC

Chemical Test:

Refusal to Take a Preliminary Breath Test:

Criminal Sanctions (Fine/Jail):

Infraction - fine up to \$50 and imprisonment up to 15 dys; §1800(b)

Administrative Licensing Action

(Susp/Rev):

N/A

Other:

N/A

Refusal to Take Implied Consent

Chemical Test

Criminal Sanction (Fine/Jail):

N/A

Administrative Licensing Action

(Susp/Rev):

Rev for at least 6 mos; Rev for at least 1 yr for a 2nd or subsequent refusal (w/n 5 yrs) or a 1st refusal where there has been a previous DWI off conviction (w/n 5 yrs)<sup>1</sup>; Special Note: These revs are mandatory. See §§510(6), 521(1)(d), 1194(2) & 1194(5).

Other:

Civil penalty of \$100; Civil Penalty of \$250 for a 2nd or subsequent refusal (w/n 5 yrs) or for a 1st refusal where there has been a previous DWI off conviction (w/n 5 yrs); 1194(3)(b)

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years, Etc.):

"Impaired" status offs See 510 and 1192 (1 and 5) under; 1st off-Not more than 15 dys; 2nd off (w/n 5 yrs)-Not more than 30 dys; 3rd and any subsequent off (w/n 10 yrs)-Not more than 90 dys; Per se and Intoxicated status offs, 1st off (Misd)-Not more than 1 yr; 2nd and any subsequent offs (w/n 10 yrs) Cl E Felony-Not more than 4 yrs<sup>1</sup>

Mandatory Minimum Term:

None

Fine:

Amount (\$ Range):

"Impaired" status offs, 1st off-\$250; 2nd off (w/n 5 yrs)-\$350-500; 3rd and any subsequent offs (w/n 10 yrs)-\$500-1,500; Per se and intoxicated status off, 1st off (Misd)-\$350-500; 2nd and subsequent offs (w/n 10 yrs) Cl E Felony-\$500 to 5,000

Mandatory Min. Fine (\$):

"Impaired" status offs, 1st off-\$250; 2nd off (w/n 5 yrs)-\$350; 3rd and any subsequent offs (w/n 10 yrs)-\$500; Per se and intoxicated off, 1st off (Misd)-\$350; 2nd and any subsequent offs (w/n 10 yrs) Cl E felony-\$500

<sup>1</sup>See N.Y. Penal Law §§66.10, 70.00 and 80.00.

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Other Penalties:

Community Service: N/A

Restitution  
(eg Victim's Fund) N/A

Other: Special Note: NY has an off known as "Vehicle Assault;" a person is guilty of such an off if they injure another in a criminally negligent manner while in violation of the DWI law; such an off is a C1 E felony; see N.Y. penal law §120.03.

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: Temporary susp is mandatory for repeat offenders w/n 5 yrs; see §510(2)(b)(vi)

UVC Type of Provisions: N/A

Other: N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action

(Susp/Rev):

"Impaired" status offs, 1st off-Susp; 2nd off (w/n 5 yrs of any alcohol driving off)-Rev; Per se and intoxicated offs, 1st off-Rev §510; 2nd and any subsequent offs (w/n 10 yrs)-Rev §510; see the Special Note below.

Term of License Withdrawal

(Days, Months, Years, etc.):

"Impaired" status offs, 1st off-90 dys; 2nd off (w/n 5 yrs of any alcohol driving off)-6 mos; Per se and intoxicated offs, 1st off-At least 6 mos; 2nd and any subsequent offs (w/n 10 yrs)-At least 1 yr

Mandatory Minimum Term of

Withdrawal:

See "Alcohol Education" under the rehabilitation section below (Footnote 1 on p.3-220)

Other:

Rehabilitation:

Alcohol Education: Yes for all offs, §523(a)

Alcohol Treatment: Yes for all offs, §521

Special Note: A person under 21 yrs old, who is convicted of any alcohol driving off, shall have their license suspended/revoked for six (6) mos or until they reach 21 which ever is the greater period of time (see §510(b)). A conditional license is not available for a subsequent alcohol offense (see §521(1)(f)).

STATE - New York

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe): Yes (with Court's permission)<sup>1</sup>

Vehicle Impoundment/Confiscation:  
Authorized by Specific  
Statutory Authority: No  
Terms Upon Which Vehicle  
Will Be Released: N/A  
Other: Special Note: A Certificate of Registration may  
be suspended or revoked for DWI convictions; see  
§510.

Miscellaneous Sanctions  
Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes, C1 D felony - death of another based on  
criminally negligent action while in violation  
of the DWI laws; see N.Y. Penal Law §215.12

Sanctions:

Criminal Sanction:

Imprisonment (Term): Not more than 7 yrs; Penal Law §70.00(2)(d)  
Mandatory Minimum Term: See Penal Code §70.00(3) on minimum sentences  
Fine (\$ Range): Not more than \$5,000; Penal Law §80.00(1)(a)  
Mandatory Minimum Fine: N/A

Administrative Licensing Action:

Licensing Authorized and  
Type of Action: Rev; Veh. & Traffic Law §510(2)(i)  
Length of Term of  
Licensing Withdrawal: Not specified--but see Veh. & Traffic Law §510(b)  
Mandatory Action--Minimum  
Length of License  
Withdrawal: 4 yrs Special Note: Under §530(2), a  
restricted use license may be issued after 4 yrs.

Other:

<sup>1</sup>Under §521(1)(f) a person may be issued a conditional license while participating in a rehabilitation program; however, under 521(1)(c) a person is not permitted to take part in such a program if they have participated in one (1) within a five (5) yr period; in addition, successful completion of the program shall satisfy any sentence of imprisonment and allow an offender to apply for reinstatement of his/her driver's license. §§521(c) and (d)

STATE - New York

Other Criminal Actions Related to Alcohol Use and Driving:

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): Misd, 7 to 180 dys; 511<sup>1</sup>  
Mandatory Minimum Term  
of Imprisonment:

Fine (\$ Range): \$500-1,000<sup>1</sup>  
Mandatory Minimum Fine:

Administrative Licensing Actions:

Type of Licensing Action  
(Susp/Rev): Susp or Rev

Length of Term of License  
Withdrawal Action: Not specified in the statute

Mandatory Term of License  
Withdrawal Action: N/A

Habitual Offender Laws:

State Has Such Law (Yes/No): No

Grounds for Being Declared an  
Habitual Offender: N/A

Term of License Rev While  
Under Habitual Offender Status: N/A

Type of Criminal Offense if  
Convicted on Charges of  
Driving While on Habitual  
Offender Status: N/A

Sanctions Following a Conviction of  
Driving While on Habitual Offender  
Status:

Imprisonment (Term): N/A

Mandatory Minimum Term of  
Imprisonment: N/A

Fine (\$ Range): N/A

Mandatory Minimum Fine (\$): N/A

Licensing Actions (Specify): N/A

Other State Laws Related To Alcohol Use  
And Driving:

Laws Requiring BAC Chemical Tests on  
Those Persons Killed in Fatal Traffic  
Crashes:

State Has Such a Law (Yes/No): Yes

<sup>1</sup>If a person is operating a motor vehicle while DWI and while their license has either been suspended or revoked for a previous DWI offense, they have committed a Class E felony and are subject to the following sanctions: Imprisonment-Not more than 4 yrs; fine-\$500-5,000 (\$500 is mandatory).

STATE - New York

Other State Laws Related To Alcohol Use  
And Driving: (continued)

BAC Chemical Test Is Given to the  
the Following Persons:

Driver: Yes, (NY County Law 674.3, NY Vehicle and  
Traffic Law 1194(a))

Vehicle Passengers: Yes, (NY County Law 674.3 (must be 16 or  
older) NY Traffic Law 1194(a))

Pedestrian: Yes, (if 16 yrs or older NY County Law  
674.3 NY Vehicle and Traffic Law 1194(a))

Laws Establishing the Minimum Ages  
Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 21 (Year Eff: 1985); Alcoholic Beverages  
Control Law §§65 & 65b and Penal Law §260.20(4)

Minimum Age (Years) Possession: N/A

Minimum Age (Years) Consumption: N/A

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): Yes, N.Y. Gen. Oblig. Law §§11-100 & 11-101

"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation): Berkeley v. Park, 262 N.Y.S. 2d 290 (1965)

Dram Shop Actions-Social Hosts: No §§11-100 & 11-101 of the Gen. Oblig. Law  
See Magee v. Landers, 471 NYS2d 799 (1983).

Other: N/A

Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

Type of Criminal Action: Class A Misd; §130 of the Alcoholic Beverage  
Control Law and §§55.10(2)(b), 70.15(1) and  
80.05(1) of the Penal Law

Term of Imprisonment: Not more than 1 yr

Fine (\$ Range): Not more than \$1,000 (For corporations, the  
fine is not more than \$5,000; see §80.10(1)(b)  
of the Penal Law.

Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Yes, suspended, cancelled, or revoked  
Alcoholic Beverage Control Law §17(3)

Length of Term of License Withdrawal: Not specified in the statute

STATE - New York

**Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:**

**Type of Criminal Action:**

Class B Misd, Alcoholic Beverage Control Law  
§§17(3), 65 and 130; Penal Law §§70.15(2),  
80.05(2) and 260.20(4)<sup>1</sup> & (5)

**Term of Imprisonment:**

Not more than 3 mos

**Fine (\$ Range):**

Not more than \$500 (For corporations, the  
fine is not more than \$2,000; see §80.10(1)(c)  
of the Penal Law.)

**Other State Laws Related To Alcohol Use  
And Driving: (continued)**

**Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:**

**License to Serve Alcoholic Beverages**

**Withdrawn (Yes/No):**

Yes, suspended, cancelled, or revoked

**Length of Term License Withdrawal:**

Not specified in the statute

**Anti-Happy Hour Laws/Regulations:**

No

**Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:**

**Open Container Law (Yes/No):**

No

**Anti-Consumption Law (Yes/No):**

Yes - Driver and passengers; §1227

<sup>1</sup>Penal Law §260.20(4), concerning the selling or giving of alcoholic beverages to a person under 21 years old, does not apply to the parent or guardian of such a person.



STATE:  
General Comments:

NORTH CAROLINA  
See Gen. Stat. of North Carolina

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	0.10% <sup>1</sup> §20-138.1(a)(2)
Presumption (BAC Level):	N/A
Types of Drugs/Drugs and Alcohol:	Any Impairing Substance §20-138.1(a)(1)
Other:	N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	Yes; §20-16.3
Implied Consent Law:	
Arrest Required (Yes/No):	Yes (Implied); §20-16.2(a)
Implied Consent Law Applies to Drugs (Yes/No):	Yes §§20-16.2 & 20-139.1
Refusal to Submit to Chemical Test Admitted into Evidence:	Yes (Criminal Cases) §20-16.2(a)(3)
Other Information:	N/A

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood:	Yes
Urine:	N/A
Other:	N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No, the law requires the prosecutor to explain a reduction or dismissal of a DWI charge; §20-138.4
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes A trial Judge may request a PSI in the case of subsequent a DWI conviction to determine whether the offender would benefit from any habitual alcohol use treatment program; even without a PSI, the trial Court may order suitable treatment for the person as a condition for probation. §20-179.1

<sup>1</sup>Special Note: It is illegal for a provisional licensee, a person between the ages of 16 and 18 to operate a motor veh with any alcohol in their body; see §20-138-3.

STATE - North Carolina

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test:

Criminal Sanctions (Fine/Jail): No  
Administrative Licensing Action  
(Susp/Rev): No  
Other: N/A

Refusal to Take Implied Consent

Chemical Test

Criminal Sanction (Fine/Jail): No  
Administrative Licensing Action  
(Susp/Rev): Rev of driving privileges for 12 mos (10  
dy immediate rev) (Mandatory) §§20-16.2(c) &  
20-16.5<sup>1</sup>  
Other: N/A

Special Note: A limited driving privilege  
license may be issued after 6 mos of the rev  
period have passed provided the driver has not  
had either a previous chemical test refusal or a  
DWI conviction within the past seven (7) yrs or  
the charge did not involve death or critical  
injury to another person. §20-16.2(e)

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

See Special Note on p. 3-239.

Imprisonment:

Term (Day, Month, Years,  
Etc.):

Level 1 Punishment - 14 dys-24 mos; Level 2  
Punishment -7 dys-12 mos; Level 3 Punishment  
-72 hrs-6 mos<sup>2</sup>; Level 4 Punishment - 48  
hrs-120 dys<sup>2</sup>; Level 5 Punishment - 24 hrs  
to 60 dys<sup>2</sup>

Mandatory Minimum Term:

Level 1 Punishment - 14 dys; Level 2  
Punishment - 7 dys

<sup>1</sup>For persons 16-18, provisional licensees, a rev of 45 dys or until the person reaches 18  
whichever is the longer period (mandatory); this rev is in addition to and runs concurrently  
with any other licensing action authorized by law for an implied consent law violation; see  
§20-13-2.

<sup>2</sup>The term of imprisonment may be suspended on the condition that the defendant either (1)  
serve the minimum term of imprisonment as a special condition of probation, or (2) perform the  
indicated community service, or (3) have their license withdrawn for the period of time shown  
under Post-DWI Conviction Licensing Action or (4) any combination of the above.

STATE - North Carolina

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Fine:

Amount (\$ Range):	<u>Level 1</u> Punishment -Not more than \$2,000; <u>Level 2</u> Punishment -Not more than \$1,000; <u>Level 3</u> Punishment -Not more than \$500; <u>Level 4</u> Punishment -Not more than \$250; <u>Level 5</u> Punishment -Not more than \$100
Mandatory Min. Fine (\$):	None

Other Penalties:

Community Service:	See Footnote 1; Level 3 Punishment -72 hrs; Level 4 Punishment -48 hrs; Level 5 Punishment - 24 hrs \$20-179
Restitution (eg Victim's Fund)	N/A
Other:	N/A

Special Note: The level of punishment to be given a DWI defendant is determined by weighing the aggravating and mitigating factors as specified in §20-179; however, (1) the Court must impose level 2 punishment if there have been two or more previous DWI convictions w/n a 7 yr period; (2) the Court must impose level 2 punishment if there has been an injury related to a DWI off; and (3) the Court must impose level 1 punishment if there have been two or more DWI convictions w/n a 7 yr period and one of the DWI convictions was injury related.

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:

Yes, 0.10% BAC-Rev for 10 dys (No limited license following a rev under this section; see §20-16.5(1)) Note: If the driver is late in surrendering or does not surrender their license to the court when ordered to do so, the rev period is 30 dys.

UVC Type of Provisions:

Other:

No  
Special Note: Under §20-179.3, a limited driving privilege may be granted for essential purposes as specified in the section (e.g., employment) provided a driver has not had either a previous conviction w/n 7 yrs or a previous DWI injury related conviction; the privilege is not effective until after the Court ordered license withdrawal period, if any, has been completed as a part of probation requirements.

<sup>1</sup>Not specified but apparently could be imposed as a condition of probation.

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Post DWI Conviction Licensing Action:

Type of Licensing Action (Susp/Rev):	<u>1st DWI off-Rev; 2nd DWI off (w/n 3 yrs)-Rev; 3rd DWI off (where the 2nd DWI off was w/n 5 yrs of the 3rd)-Rev; §§20-17, 20-19 &amp; 20-179<sup>1</sup></u>
Term of License Withdrawal (Days, Months, Years, etc.):	<u>1st DWI off-1 yr (See levels of punishment); 2nd DWI off-4 yrs; 3rd DWI off (where the 2nd DWI off was w/n 5 yrs of the 3rd) Permanent; Levels 1 &amp; 2 Punishment-See the revs above for multiple DWI convictions and the special note under Other Penalties; Level 3 Punishment-90 dys; Level 4 Punishment-60 dys; Level 5 Punishment-30 dys</u>
Mandatory Minimum Term of Withdrawal:	<u>2nd DWI off-2 yrs (After 2 yrs., a conditional license may be issued); 3rd DWI off-3 yrs (After 3 yrs., a conditional license may be issued) (Note: For Levels 3, 4, &amp; 5 Punishment: Temporary license withdrawal as a condition of probation.)</u>
Other:	
Rehabilitation:	
Alcohol Education:	N/A
Alcohol Treatment:	N/A
Alcohol Education/ Treatment as an Altern- ative to Criminal Licensing Actions (Describe):	N/A
Vehicle Impoundment/Confiscation:	
Authorized by Specific Statutory Authority:	N/A
Terms Upon Which Vehicle Will Be Released:	N/A

<sup>1</sup>For persons who have provisional licenses, persons 16-18 yrs old, the following sanctions apply:

- 1) For the offs of driving with any alcohol in their body but where such amount would not result in a normal DWI charge and conviction (see §20-138.3) - a rev for 45 dys or until the person reaches 18 whichever is the longer rev period.
- 2) For a DWI conviction - a rev for 45 dys or until the person reaches 18 whichever is the longer rev period plus a regular DWI rev. These revs, however, are to run concurrently; see §20-13.2.

STATE - North Carolina

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Other: A driver's veh may be subject to forfeiture if the driver is convicted of driving while his/or her license is revoked where the basis of the rev was a DWI conviction. §20-28.2

Miscellaneous Sanctions  
Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes, Death by Vehicle (Cl 1 felony if death is DWI related) Misd (If death is not DWI related) 20-141.4

Sanctions:

Criminal Sanction:

Imprisonment (Term): Cl 1 felony-Not more than 5 yrs (§14-1.1);  
Misd-Not more than 2 yrs

Mandatory Minimum Term: None

Fine (\$ Range): Cl 1 felony-Fines authorized but not specified in the statute; see §14-1.1; Misd-Not more than \$500

Mandatory Minimum Fine: None

Administrative Licensing Action:

Licensing Authorized and

Type of Action: Rev

Length of Term of

Licensing Withdrawal: 1 yr unless the trial judge issues a limited driving privilege to the person convicted containing a condition that the defendant successfully completes a course of instruction at an Alcohol Drug, Ed. Traffic School. If the defendant complies with these provisions, the Division must restore his/her license within 6 mos. 20-17(1) and 29-19(c)

Mandatory Action--Minimum

Length of License

Withdrawal: N/A

Other: N/A

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

(See "Other" under Vehicle Impoundment/Confiscation.)

Sanction:

Criminal:

Imprisonment (Term):

1st off-Not to exceed 2 yrs; 2nd off-Not to exceed 2 yrs; 3rd off-Not to exceed 2 yrs 20-28(a); If a person's license has been permanently revoked and they thereafter drive they commit a misd-30 dys to 2 yrs

Mandatory Minimum Term of Imprisonment:

If a person's license has been permanently revoked and they thereafter drive they commit a misd - 30 dys

Fine (\$ Range):

1st off-Not less than \$200; 2nd off-Not less than \$200; 3rd off-Not less than \$200, 20-28(a); If a person's license has been permanently revoked and they thereafter drive they commit a misd-Not more than \$1,000

Mandatory Minimum Fine:

None

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev):

1st off-Susp or Rev; 2nd off-Susp or Rev; 3rd off-Rev

Length of Term of License Withdrawal Action:

1st off-1 yr (additional to original term); 2nd off-2 yrs (additional to original term); 3rd off-Permanently

Mandatory Term of License Withdrawal Action:

1st off-90 dys; 2nd off-12 mos; 3rd off-3 yrs; (The licensing agency may issue a new license with or without conditions after these terms of license withdrawal.)

Special Note: If a person is convicted of a DWI off and they were at the time of such off driving while their license was revoked for a previous DWI off conviction (w/n 7 yrs), the Court must impose level 1 punishment as set out under Other Penalties. See §20-179(c)

Habitual Offender Laws:

State Has Such Law (Yes/No):

No (Note: The law for habitual offenders (§§20-220 to 20-231) was repealed by Session Laws 1977, Ch. 243, § 1

Grounds for Being Declared an Habitual Offender:

N/A

STATE -- North Carolina

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Term of License Rev While  
Under Habitual Offender Status: N/A

Type of Criminal off if  
Convicted on Charges of  
Driving While on Habitual  
Offender Status N/A

Sanctions Following a Conviction of  
Driving While on Habitual Offender  
Status:

Imprisonment (Term): N/A

Mandatory Minimum Term of  
Imprisonment: N/A

Fine (\$ Range): N/A

Mandatory Minimum Fine (\$): N/A

Licensing Actions (Specify): N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on  
Those Persons Killed in Fatal Traffic  
Crashes:

State Has Such a Law (Yes/No): Yes, 20-166-1(f)

BAC Chemical Test Is Given to the  
the Following Persons:

Driver: Yes

Vehicle Passengers: Yes

Pedestrian: Yes

Laws Establishing the Minimum Ages  
Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 21 (Year Eff: 1986) §§18B-300, 18B-301 &  
18B-302

Minimum Age (Years) Possession: 21

Minimum Age (Years) Consumption: 21

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): Yes, §§18B-120 et seq.<sup>1</sup> (Law limits  
recovery to \$500,000)

<sup>1</sup>These statutory provisions create a Dram Shop type of liability to situations involving minors (those persons under 19 yrs old) who cause damages while DWI and places limitations on damage amounts which can be awarded in such actions under such statutory provisions. However, the law specifically does not limit or prohibit other types of Dram Shop civil actions which are based either on other statutes or on case law.

STATE - North Carolina

Other State Laws Related To Alcohol Use  
And Driving: (continued)

"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation):	Yes, <i>Hutchens v. Hankins</i> , 303 S.E.2d 584 (N.C. App. 1983) and <i>Chastain v. Litton Systems, Inc.</i> , 694 F.2d 957 (CA4, 1982).
Dram Shop Actions-Social Hosts:	No (Note: There are no State cases directly on this issue; however, see <i>Chastain v. Litton, Systems, Inc.</i> , 694 F.2d 957 (CA 4th Cir., 1982)
Other:	N/A
<b>Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:</b>	
Type of Criminal Action:	None
Term of Imprisonment:	N/A
Fine (\$ Range):	1st off--up to \$500 <sup>1</sup> ; 2nd off--up to \$750 <sup>1</sup> ; 3rd off--up to \$1,000 <sup>1</sup> ; 18B-104 §18B-305
<b>Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:</b>	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes, (left to Board's discretion whether to suspended or revoked.) §18B-104 18B-305
Length of Term of License Withdrawal:	For a specified time up to 3 yrs if suspended and permanently if revoked §18B-104 §18B-305
<b>Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:</b>	
Type of Criminal Action:	None
Term of Imprisonment:	N/A
Fine (\$ Range):	1st off--up to \$500 <sup>1</sup> ; 2nd off--up to \$750 <sup>1</sup> ; 3rd off--up to \$1,000 <sup>1</sup> ; §18B-104 and §18B-302

<sup>1</sup>Administrative penalty



STATE - North Carolina

Other State Laws Related To Alcohol Use  
And Driving: (continued)

**Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:**

**License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):**

Yes (Left to Board's discretion whether  
suspended or revoked.) §18b-104 §188-302

**Length of Term License Withdrawal:**

For a specific time up to 3 yrs if suspended  
and permanently if revoked. §188-104 and  
§188-302

**Anti-Happy Hour Laws/Regulations:**

No

**Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:**

**Open Container Law (Yes/No):**

Yes<sup>1</sup> §188-401(a)

**Anti-Consumption Law (Yes/No):**

Yes<sup>1</sup> driver only §188-401(a)

<sup>1</sup>The law states that "it shall be unlawful for a person to transport fortified wine or spiritous liquor in the passenger area of a motor veh in other than the manufacturer's unopened original container. It shall be unlawful for a person who is driving a motor veh on a highway or public veh area to consume in the passenger area of that veh any malt beverage or unfortified wine."

STATE:

NORTH DAKOTA

General Comments:

See: North Dakota Century Code Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	0.10% §§39-08-01(1) & (2) and 39-20-07(3)
Presumption (BAC Level):	No
Types of Drugs/Drugs and Alcohol:	(1) Narcotic Drugs, (2) Any Controlled Substance and (3) a Combination of Intoxicating Liquor and a Controlled Substance §39-08-01(1) & (2)
Other:	N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	Yes §39-20-14
Implied Consent Law:	
Arrest Required (Yes/No):	Yes §39-20-01
Implied Consent Law Applies to Drugs (Yes/No):	Yes §39-20-01
Refusal to Submit to Chemical Test Admitted into Evidence:	Yes (Criminal Cases) §39-20-08 Admissible provided the defendant testifies.
Other Information:	N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes
Urine:	Yes
Other:	Saliva

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes §39-08-01

Sanctions for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	No
Administrative Licensing Action (Susp/Rev):	Same as for Implied Consent Refusal §§39-20-04 & 39-20-14
Other:	N/A

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail):	No
Administrative Licensing Action (Susp/Rev):	1st refusal Rev.-1 yr ;2nd refusal (w/n 5 yrs.) Rev.-2 yrs; 3rd or sub. refusal (w/n 5 yrs.) Rev.-3 yrs. These license revocations are mandatory; i.e., no temporary restricted license may be issued. See 39-06.1-11(2) & 39-20-04. <sup>1</sup>
Other:	N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years,  
Etc.):

1st off (C1 B Misd)-Not more than 30 dys;  
2nd off (w/n 5 yrs) (C1 B Misd)-Not more than  
30 dys; 3rd (w/n 5 yrs) (C1 A Misd)-Not more  
than 1 yr; 4th and subsequent offs (w/n 7  
yrs) (C1 A Misd)-Not more than 1 yr

Mandatory Minimum Term:

1st off-No; 2nd off (w/n 5 yrs)-4 dys of  
which 48 hrs must be served cons; 3rd off (w/n 5  
yrs)-60 dys of which 48 hrs must served  
cons; 4th and subsequent off (w/n 7 yrs)-180  
dys of which 48 hrs must be served cons

Fine:

Amount (\$ Range):

1st off-Not more than \$500; 2nd off (w/n 5  
yrs)-Not more than \$500; 3rd offs (w/n 5  
yrs)-Not more than \$1,000; 4th and  
subsequent off-Not more than \$1,000

Mandatory Min. Fine (\$):

1st off-\$250; 2nd off (w/n 5 yrs)-\$500;  
3rd and subsequent offs (w/n 5 yrs) \$1,000

Other Penalties:

Community Service:

1st off-No; 2nd and subsequent off (w/n 5  
yrs)-10 dys as an alternative to imprisonment

Restitution

(eg Victim's Fund)

Yes for all offs §§5-01-06 & 12.1-32-02

<sup>1</sup>Special Note: Previous DWI convictions are considered as previous refusals for the purpose of determining license enhancement sanctions under the Implied Consent Law.

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Other:

Special Note: North Dakota has two alcohol-driving offs, §§39-08-01(1) & 39-08-01(2). The provisions are identical except that under 39-08-01(1) "A person may not drive any veh" whereas, under 39-08-01(2), "A person may not be in actual physical control of any veh." The penalties for both offs are the same. However, the imposition of mandatory sanctions is not required following a conviction under 39-08-01(2) whereas it is required following a conviction under 39-08-01, see 39-08-01(5)(e)(1).

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:

Yes-0.10% BAC and the person was arrested for violating §§39-08-01 & 39-20-03.1 et seq.<sup>1</sup>; 1st off-91 dy susp (30 dys are mandatory); 2nd off (w/n 5 yrs)-364 dy susp (mandatory); and 3rd and sub. off (w/n 5 yrs.)-2 yrs. susp. (mandatory)

UVC Type of Provisions:

Yes

Other:

N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action

(Susp/Rev):

1st off-Susp; 2nd off (w/n 5 yrs)- Susp; 3rd off (w/n 5 yrs)-Susp; Note: 4th off (w/n 7 yrs)-Susp, treated as a 1st off §§39-06-35 & 39-06.1-10

Term of License Withdrawal

(Days, Months, Years, etc.):

1st off-91 dys; 2nd off (w/n 5 yrs)-364 dys; 3rd off (w/5 yrs)-728 dys

Mandatory Minimum Term of

Withdrawal:

1st off-30 dys (A temporary license may be issued after the 30 dy mandatory period; see §39-06.1-11.); 2nd off (w/5 yrs)- 364 dys; 3rd off (w/n 5 yrs)-728 dys

Other:

Rehabilitation:

Alcohol Education:

Yes

<sup>1</sup>See especially §§39-06.1-11(2) & 39-20-04.1.

STATE - North Dakota

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Alcohol Treatment: Yes For 1st, 2nd and 3rd alcohol-driving off convictions, the sentence must include referral to a treatment program; see §39-08-01(5) Note: Under Section 16 of Senate Bill 2373 as enacted in 1983 a person's license may be suspended for failure to participate in and complete a Court ordered alcohol treatment program; see the cited section for details on susp periods.

Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe): N/A

Vehicle Impoundment/Confiscation:  
Authorized by Specific  
Statutory Authority: No  
Terms Upon Which Vehicle  
Will Be Released: N/A  
Other:

License plates may be impounded following a conviction for an alcohol driving off; see §39-08-01(4)

Miscellaneous Sanctions  
Not Included Elsewhere: Note: Special mandatory sanctions apply if either death or injury is caused by a DWI. If a person is convicted of DWI and either manslaughter or negligent homicide, there is a mandatory penalty of 1 yr. imprisonment. If a person is convicted of both DWI and reckless driving where there is a personal injury caused by the convicted driver, there is a mandatory penalty of 90 dys imprisonment. See §22 of SB. 2373 as enacted in 1983.

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:  
State Has Such Law/Type of off: No, see Note above  
Sanctions:  
Criminal Sanction:  
Imprisonment (Term): N/A  
Mandatory Minimum Term: N/A  
Fine (\$ Range): N/A  
Mandatory Minimum Fine: N/A

STATE - North Dakota

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Administrative Licensing Action:  
Licensing Authorized and  
Type of Action:

Special Note: Even though this State does not have a veh homicide statute, it, nevertheless, provides for mandatory license rev from 30 dys to 1 yr for a conviction of manslaughter resulting from the operation of a motor veh.

Length of Term of  
Licensing Withdrawal: N/A  
Mandatory Action--Minimum  
Length of License  
Withdrawal: N/A  
Other: N/A

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): C1 B Misd Not more than 30 dys; §39-06-42;  
Note: Under §39-06-42(3), license plates may also be impounded for the duration of the driver's license susp/rev.

Mandatory Minimum Term  
of Imprisonment: 4 con. dys See §§39-06-42(2) & 37-08-01  
Fine (\$ Range): Not more than \$500  
Mandatory Minimum Fine: N/A

Administrative Licensing Actions:

Type of Licensing Action  
(Susp/Rev):

Additional mandatory susp for a like period<sup>1</sup>, a person driving while his license is revoked would incur a mandatory 1-yr extension of the period of Rev. Note: Special licensing actions apply for a violation of the conditions of a restricted license; see 39-06.1-11, 39-06-43 and 39-08-01.

Length of Term of License  
Withdrawal Action: See above  
Mandatory Term of License  
Withdrawal Action: Same as above; see §39-06.1-11(2)N/A

<sup>1</sup>If the actual suspension was for an indefinite or unstated period of time, the additional suspension shall be for a period of six (6) months.

STATE - North Dakota

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Habitual Offender Laws:  
 State Has Such Law (Yes/No): No  
 Grounds for Being Declared an Habitual offender: N/A  
 Term of License Rev While Under Habitual Offender Status: N/A  
 Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: N/A  
 Sanctions Following a Conviction of Driving While on Habitual Offender Status:  
 Imprisonment (Term): N/A  
 Mandatory Minimum Term of Imprisonment: N/A  
 Fine (\$ Range): N/A  
 Mandatory Minimum Fine (\$): N/A  
 Licensing Actions (Specify): N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:  
 State Has Such a Law (Yes/No): Yes  
 BAC Chemical Test Is Given to the the Following Persons:  
 Driver: Yes  
 Vehicle Passengers: Yes  
 Pedestrian: Yes

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:  
 Minimum Age (Years) Sale/Purchase: 21 (yr eff: 1936) §§5-01-08 & 5-02-06  
 Minimum Age (Years) Possession: 21  
 Minimum Age (Years) Consumption: N/A

Dram Shop Laws and Related Legal Actions:  
 State Has a Dram Shop Law (Yes/No): Yes §5-01-06  
 "Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation): No  
 Dram Shop Actions--Social Hosts: Possible statutory liability See §5-01-06  
 Other: N/A

STATE - North Dakota

Other State Laws Related To Alcohol Use  
And Driving: (continued)

**Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

Type of Criminal Action: C1 A Misd §5-01-09  
Term of Imprisonment: Not more than 1 yr §12.1-32-01  
Fine (\$ Range): Not more than \$1,000 §12.1-32-01

**Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Yes, rev or susp §§5-02-10 and 25-02-11  
Length of Term of License Withdrawal: Time period not specified in the statute  
§5-02-11

**Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:**

Type of Criminal Action: C1 A Misd §§5-01-09 & 5-02-06  
Term of Imprisonment: Not more than 1 yr §12.1-32-01  
Fine (\$ Range): Not more than \$1,000 §12.1-32-01

**Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Yes, rev or susp §§5-02-10 and 25-02-11  
Length of Term License Withdrawal: Time period not specified in the statute  
§5-02-11

**Anti-Happy Hour Laws/Regulations:** No

**Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:**

Open Container Law (Yes/No): Yes §39-08-18  
Anti-Consumption Law (Yes/No): Yes Driver and passengers §37-08-18 (The  
law states that "no person shall drink or  
consume alcoholic beverages ... in or on any  
motor veh when such veh is upon a public highway  
or in an area used principally for public  
parking.")



STATE:

OHIO

General Comments:

See Ohio Revised Code Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	0.10% §4511.19(A)(2) & (3)
Presumption (BAC Level):	No
Types of Drugs/Drugs and Alcohol:	(1) Any Drug or (2) Combination of These and Alcohol §4511.19(A)(1)
Other:	None

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	No
Implied Consent Law:	
Arrest Required (Yes/No):	Yes §4511.191(A)
Implied Consent Law Applies to Drugs (Yes/No):	Yes 4511.191(A)
Refusal to Submit to Chemical Test Admitted into Evidence:	Yes City of Westerville v. Cunningham, 239 N.E.2d 40 (1968)
Other Information:	None

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes §4511.191(A)
Urine:	Yes §4511.191(A)
Other:	Probably no ("Other bodily substance applicable to 4511.19 but not mentioned in §4511.191 which is the Implied Consent Statute) §4511.191(A), and §4511.19

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	No

Sanctions for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	N/A
Administrative Licensing Action (Susp/Rev):	N/A
Other:	N/A

STATE - Ohio

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail):

1st Refusal—Not more than \$100; 2nd refusal  
(w/n 1 yr)—30 dys and not more than  
\$250; 3rd and subsequent refusals (w/1 yr.  
of 1st)—not more than 60 dys and not more  
than \$500; §§4511.99(E) and 2929.21

Administrative Licensing Action  
(Susp/Rev):

For any 1st Refusal Susp—1 yr §4511.191(O)  
(Occupational driving privileges may be granted;  
see §4511.191(G)(5))

Other:

None

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years,  
Etc.):

Misd of the first degree. 1st Off - Not more  
than 6 mos; 2nd Off (w/n 5 yrs) - Not more  
than 6 mos; Subsequent offs (w/n 5 yrs) -  
30-dys-1 yr §§2929.21 & 4511.99(A)

Mandatory Minimum Term:

1st Off - 3 dys<sup>\*</sup>; 2nd off (w/n 5 yrs) -  
10 dys; Subsequent offs (w/n 5 yrs) - 30  
dys; These dys are to be served consecutively

Fine:

Amount (\$ Range):

1st Off - \$150-1,000; 2nd off (w/5 yrs) -  
\$150-1,000; Subsequent offs (w/5 yrs)-  
\$150-1,000

Mandatory Min. Fine (\$):

None

Other Penalties:

Community Service:

None

Restitution

(eg Victim's Fund)

None

Other:

Driver's intervention program; see §3720.66.

\*In lieu of this 3 day jail sanction, the court may place a defendant on probation and order them to attend a driver's intervention program for 3 consecutive days; see §§4511.99(A)(1) and 3720.66.

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:

Yes - Under the following conditions. At the initial court appearance following a DWI arrest, the court shall immediately suspend a driver's license if the driver, at the time of arrest, either refused to submit to a chemical test or, having refused to submit to such a test, was found to have a BAC level of 0.10 or more and one of the following: 1) The driver has had a previous DWI conviction; 2) The driver's license is either revoked or suspended; 3) The driver has caused either death or serious harm to another person; 4) The driver fails to appear for the hearing; or 5) The court determines that the driver's continued operation of a motor veh will be a threat to the public safety. This susp continues until the DWI charge is adjudicated; this usually takes 90 dys after the DWI arrest. It appears that occupational driving privileges may be granted during this susp period. Note: A law enforcement officer may sieze a driver's license after a DWI arrest if the driver refuses to submit to a chemical test or if the driver's BAC level is 0.10 or more. See §§4511.191(E), (G), (J), and (K)

UVC Type of Provisions:

No

Other:

None

Post DWI Conviction Licensing Action:

Type of Licensing Action

(Susp/Rev):

1st Off-Susp; 2nd off (w/n 5 yrs) Susp;  
Subsequent offs (w/n 5 yrs) - Susp;  
§4507.16(B)

Term of License Withdrawal

(Days, Months, Years, etc.):

1st Off -60 dys-3 yrs; 2nd off (w/n 5 yrs)-120 dys-5 yrs; Occupational driving privileges may be granted for 1st and 2nd offs; see §4507.16(D); Subsequent off (w/n 5 yrs)-180 dys-10 yrs

Mandatory Minimum Term of  
Withdrawal:

Subsequent Off (w/n 5 yrs)-180 dys  
§4507.16(F); After the mandatory minimum term, occupational driving privileges may be granted §4507.16(D)

STATE - Ohio

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Other:

Rehabilitation:

Alcohol Education: No  
Alcohol Treatment: Yes

Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe):

May be imposed if defendant is an alcoholic or suffering from acute alcohol intoxication. This treatment may be imposed in place of a jail term. Confinement shall be for at least 3 dys and no more than length of maximum prison sentence. §2935.33

Vehicle Impoundment/Confiscation:

Authorized by Specific  
Statutory Authority: No

Terms Upon Which Vehicle  
Will Be Released: N/A

Other: (Special Note: Vehicle Registration certificate and license plates shall be impounded for driving while license is susp/rev; see §4507.38(c) & 4507.164

Miscellaneous Sanctions  
Not Included Elsewhere:

Special Note: A license may be suspended via a point system under §4507.40. In brief, under this section a DWI conviction results in as assessment of 6 points; if a driver accumulates 12 or more points from traffic violations within a 2 yr period, their license may be suspended for 6 mos.

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Off: Yes §§2903.06 and 2903.07

Sanctions:

Criminal Sanction:

Imprisonment (Term): 1.) 1st off - 6 mos; 2nd off + 6 mos to 5 yrs 2.) If aggravated (reckless), 1st off - 6 mos to 5 yrs; 2nd off + 1 to 10 yrs; §§2929.11 and 2928.21

Mandatory Minimum Term: None

Fine (\$ Range): 1.) 1st off - \$0-1,000; 2nd off + \$0 to 2,500; 2.) If aggravated, 1st off - \$0 to 2,500; 2nd off + - \$0 to 5,000; §§2929.11 and 2929.21

Mandatory Minimum Fine: None

STATE - Ohio

Other Criminal Actions Related to Alcohol  
Use and Driving: (continued)

Administrative Licensing Action:  
Licensing Authorized and  
Type of Action: Susp or rev, plus 6 points under the point  
system §§4507.16 and 4507.40  
Length of Term of  
Licensing Withdrawal: 30 dys to 3 yrs  
Mandatory Action--Minimum  
Length of License  
Withdrawal: 30 dys  
Other: None

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): Not more than 6 mos (Misd of the first  
degree) §§4507.38, 4507.39, 4507.99  
Mandatory Minimum Term  
of Imprisonment: No  
Fine (\$ Range): Not more than \$1,100 §4507.99  
Mandatory Minimum Fine: No

Administrative Licensing Actions:

Type of Licensing Action  
(Susp/Rev): Susp points gained (certificate of registration  
and license plates in defendant's name shall be  
impounded for duration of license susp time.)  
§4507.38(c) §4507.40  
Length of Term of License  
Withdrawal Action: Discretionary susp for not more than 1  
yr or; mandatory 6 points on 12-point susp  
system §§4507.99 and 4507.40  
Mandatory Term of License  
Withdrawal Action: No

Habitual Offender Laws:

State Has Such Law (Yes/No): No  
Grounds for Being Declared an  
Habitual Offender: N/A  
Term of License Rev While  
Under Habitual Offender Status: N/A

STATE - Ohio

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Type of Criminal Offense if  
Convicted on Charges of  
Driving While on Habitual  
Offender Status N/A

Sanctions Following a Conviction of  
Driving While on Habitual Offender  
Status:

Imprisonment (Term): N/A  
Mandatory Minimum Term of  
Imprisonment: N/A  
Fine (\$ Range): N/A  
Mandatory Minimum Fine (\$): N/A  
Licensing Actions (Specify): N/A

Other State Laws Related To Alcohol Use  
And Driving:

Laws Requiring BAC Chemical Tests on  
Those Persons Killed in Fatal Traffic  
Crashes:

State Has Such a Law (Yes/No): Yes §38-709 §55-10-406

BAC Chemical Test Is Given to the  
the Following Persons:

Driver: Yes §4511-19-1(B)  
Vehicle Passengers: No  
Pedestrian: No

Laws Establishing the Minimum Ages  
Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 19 for beer; 21 for all other alcoholic  
beverages; §4301.22(A) (Year Eff: 1982)

Minimum Age (Years) Possession: N/A

Minimum Age (Years) Consumption: 19 for beer; 21 for all other alcoholic  
beverages; §4301.631, 632 & 69

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): Yes §4399.01

"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation): Yes, Mason v. Roberts, 244 N.E. 2d 844 (1973)

Dram Shop Actions--Social Hosts: No Settlemyer v. Wilmington Veterans Post  
No. 49, American Legion, Inc.  
464 N.E.2d 521 (1994)

Other: No

STATE - Ohio

Other State Laws Related To Alcohol Use  
And Driving: (continued)

**Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

Type of Criminal Action: 3rd Degree - Misd §§4301.22(B), 4301.991(E)  
Term of Imprisonment: Not more than 60 days; §2929.21(B)(3)  
Fine (\$ Range): Not more than \$500; §2929.21(c)(3)

**Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Yes §§4301.25 and 4301.27  
Length of Term of License Withdrawal: Indeterminate

**Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:**

Type of Criminal Action: Misd<sup>1</sup>  
Term of Imprisonment: Misd. 1st Degree: Not more than 6 mos;  
§2929.21(B)(1) Misd. 3rd Degree: Not more  
than 60 days; §2929.21(B)(3)  
Fine (\$ Range): Misd. 1st Degree: Not more than  
\$1,000; §2929.21(c)(1) Misd. 3rd  
Degree: Not more than \$5,000; §2929.21(c)(3)

**Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Yes §§4301.25 and 4301.27  
Length of Term License Withdrawal: Indeterminate

**Anti-Happy Hour Laws/Regulations:** Yes 4301:1-1-50 (regulation)

**Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:**

Open Container Law (Yes/No): No  
Anti-Consumption Law (Yes/No): Yes Drivers and passengers §4301.64 (The  
law states that "No person shall consume any  
beer or intoxicating liquor in a motor veh")

<sup>1</sup>A person may be charged with a misd. of either the 1st or 3rd degree; see §§4301.22(A),  
4301.69, 4301.99(C) & §4301.99(E).

STATE:  
General Comments:

OKLAHOMA  
See Oklahoma Statutes Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): 0.10% Title 47 §11-902(A)(1)  
Presumption (BAC Level): >0.05% and <0.10% is evidence of Driving  
While Impaired Title 47 §756(b)  
Types of Drugs/Drugs and Alcohol: (1) Intoxicating Substances or (2) a Combination  
of These and Alcohol 47 §11-902(A)(3) & (4)  
Other: 0.10% BAC level is also prima facie evidence  
that a person was under the influence of  
alcohol Title 47 §756(c)

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: No  
Implied Consent Law:  
Arrest Required (Yes/No): Yes 47 §751  
Implied Consent Law Applies to  
Drugs (Yes/No): Yes 47 §751(A)  
Refusal to Submit to Chemical Test  
Admitted into Evidence: Yes (Criminal Cases) 47 §756  
Other Information: N/A

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood: Yes 47 §751  
Urine: N/A  
Other: N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No  
Anti-Plea Bargaining Statute (Yes/No): No  
Pre-Sentencing Investigation Law (PSI)  
(Yes/No): Yes, (2nd and subsequent offs) 22 982

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test:  
Criminal Sanctions (Fine/Jail): N/A  
Administrative Licensing Action  
(Susp/Rev): N/A  
Other: N/A  
  
Refusal to Take Implied Consent  
Chemical Test  
Criminal Sanction (Fine/Jail): None



Sanction for Refusal to Submit to a BAC  
Chemical Test: (continued)

Administrative Licensing Action  
(Susp/Rev):

Rev 6 mos (Note: Hardship driving  
privileges are available) 47 §§753, 754.1 & 755

Other:

Note: The law authorizes a mandatory chemical  
test in situations where there is probable cause  
that a person has been operating a motor vehicle  
while DWI and such operation has caused either  
death or serious physical injury to another  
person. See 47 §753.

Sanctions Following a Conviction for a DWI Offense:

**Criminal Sanctions:**

**Imprisonment:**

Term (Day, Month, Years,  
Etc.):

Driving While Under the Influence/Illegal Per Se  
1st Off (Misd)-10 dys-1 yr; 2nd & subsequent  
Offs (w/n 10 yrs-felony)-1 yr-5 yrs 47  
§11-902(a); Personal Injury Accident w/BAC of  
0.10% 1st Off (Misd)-90 dys-1 yr; 2nd Off  
(felony)-1-5 yrs

**Mandatory Minimum Term:**

For all offs - None (Note: A Court has the  
power the suspend a sentence and/or place a  
defendant in probation; see 22 §991a)

**Fine:**

Amount (\$ Range):

Driving While Impaired, 1st off-\$100-300;  
2nd off +-\$100-300 47 §761; Driving While  
Under the Influence/Illegal Per Se, 1st Off  
(Misd)- Not more than \$1,000; 2nd &  
subsequent offs (w/n 10 yrs-felony)-Not more  
than \$2,500 47 §11-902(c); Personal injury  
Accident w/BAC of 0.10, 1st off (Misd)-Not more  
than \$2,000; 2nd off (Felony)-Not more than  
\$5,000; 47 §11-904

**Mandatory Min. Fine (\$):**

None

**Other Penalties:**

**Community Service:**

For all offs - Yes; see 22 §199a

**Restitution**

(eg Victim's Fund)

For all offs - Yes; see 22 §199a

**Other:**

N/A

**Administrative Licensing Actions:**

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:

Yes - 0.10% BAC level; Rev for 90  
dys (The rev may be modified by a District  
Court in cases of unusual hardship related to  
employment) 47 §§754 & 755

<sup>1</sup>The revs for a violation of 47 §11-902 would, it appears, apply also to violations 47  
§11-904 (See 47 §6-205 and 47 §756); however, there are no specific licensing actions in 47  
§11-904.

Sanctions Following a Conviction for a DWI Offense:  
(continued)

UVC Type of Provisions:	No
Other:	N/A
 <u>Post DWI Conviction Licensing Action:</u>	
Type of Licensing Action (Susp/Rev):	For driving while impaired (47 §761)- <u>1st Off-</u> No licensing action is taken for a 1st off; <u>2nd and subsequent offs-Susp 47 §761</u> ; For Driving While Under the Influence/Illegal Per Se (47 §11-902) <sup>1</sup> ; <u>1st Off-Rev</u> ; <u>1st Off</u> (where there has a previous driving while impaired off w/n 3 yrs)-Rev <sup>1</sup>
Term of License Withdrawal (Days, Months, Years, etc.):	For driving while impaired, <u>2nd and subsequent offs-6 mos</u> ; For driving While Under the influence/illegal Per Se, <u>1st Off-6 mos</u> ; <u>1st Off</u> (where there has been a previous driving while impaired off w/3 yrs)-1 yr; <u>2nd Off-</u> Rev 2 yrs; <u>3rd off w/n 3 yrs - Rev 3</u> yrs; 47 §§6-205 and 6-208
Mandatory Minimum Term of Withdrawal:	For driving while impaired <u>2nd and subsequent offs-6 mos</u> ; For Driving While Under the Influence/Illegal Per Se, <u>1st Off-6 mos</u> ; <u>1st Off</u> (where there has been a previous driving while impaired Off w/n 3 yrs.)-1 yr; <u>2nd Off-2 yrs</u> ; <u>3rd Off-3 yrs</u>
 <u>Other:</u>	
Rehabilitation:	Yes
Alcohol Education:	Yes Nonprofit educational institutions of higher learning, governmental or nonprofit organizations offer courses for drinking driver retraining; a court may (with defendant's consent), upon DWI defendant's plea of guilty or <u>nolo contendere</u> , but before judgement is entered, commit defendant to undertake these courses. Further judicial proceedings are deferred only upon conditions that defendant attend and successfully complete courses at their own expense. A defendant could be assigned to an alcohol treatment program while they are serving their imprisonment sanctions; see 47 §§11-902(c), (d), & (e), 11-902.1, 11-902.2 and 11-902.3. In addition, under 47 §6-212.2, a DWI defendant must complete an alcohol and substance abuse course before their license can be reinstated.
Alcohol Treatment:	

STATE - Oklahoma

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe): No  
Vehicle Impoundment/Confiscation:  
Authorized by Specific  
Statutory Authority: No  
Terms Upon Which Vehicle  
Will Be Released: N/A  
Other: N/A  
Miscellaneous Sanctions  
Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes 47 §11-903

Sanctions:

Criminal Sanction:

Imprisonment (Term): 1 yr  
Mandatory Minimum Term: No  
Fine (\$ Range): \$100-1,000  
Mandatory Minimum Fine: No

Special Note: The Oklahoma Courts have decided that if a veh homicide is proximately caused by an alcohol driving law offender, for a first off the charge may be Manslaughter 1 and for a second off the charge may be Murder II. See respectively para. 1 of sec. 711 of Title 31 (Mc Connell v. State, 485 P.2d.764 (1971) and White v. State 483 P.2d.751 (1971) and para 2 sec. 701.B of Title 21 (Isom v. State, 646 P.2d, 1288 (1982)).

Administrative Licensing Action:

Licensing Authorized and  
Type of Action: Rev  
Length of Term of  
Licensing Withdrawal:

6 mos but 1 yr if within prior 3 yrs there has been a motor veh violation conviction; 2 yrs if revoked twice before for Driving while under the influence, negligent homicide, etc.

Mandatory Action--Minimum  
Length of License  
Withdrawal: 6 Mos  
Other: N/A

STATE - Oklahoma

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): Where the original licensing action was a 1st or 2nd driving off of either under the influence Illegal Per Se or Admin. Pe Se - 10 dys to 12 mos; Where the original licensing action was a 3rd off of either driving under the influence, Illegal Per Se or Admin Per Se action (w/n 3 yrs) - 60 dys to 1 yr; 47 §6-303(c)

Mandatory Minimum Term of Imprisonment: None

Fine (\$ Range): Where the original licensing action was a 1st or 2nd off of either driving under the influence, Illegal Per Se or Admin Per Se - \$250-600; Where the original licensing action was a 3rd off of either driving under the influence, Illegal Per Se or Admin Per Se (w/n 3 yrs) - \$500-2,000

Mandatory Minimum Fine: None

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev): Susp or rev; 47 §6-303(d)

Length of Term of License Withdrawal Action: Period of susp/rev extended not more than 12 mos; 47 §6-303(d)

Mandatory Term of License Withdrawal Action: Period of susp/rev extended not more than 12 mos; 47 §6-303(d)

Habitual Offender Laws:

State Has Such Law (Yes/No): No

Grounds for Being Declared an Habitual Offender: N/A

Term of License Rev While Under Habitual Offender Status: N/A

Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: N/A

Sanctions Following a Conviction of Driving While on Habitual Offender Status:

Imprisonment (Term): N/A

Mandatory Minimum Term of Imprisonment: N/A

Fine (\$ Range): N/A

Mandatory Minimum Fine (\$): N/A

Licensing Actions (Specify): N/A

STATE - Oklahoma

Other State Laws Related To Alcohol Use  
And Driving:

Laws Requiring BAC Chemical Tests on  
Those Persons Killed in Fatal Traffic  
Crashes:

State Has Such a Law (Yes/No):	Yes 47 §751
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes 47 §751
Vehicle Passengers:	Yes 47 §10-113
Pedestrian:	Yes 47 §10-113

Laws Establishing the Minimum Ages  
Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase:	21 37 §241 & 37 §537 (a)(1) (Year Eff: 1983)
Minimum Age (Years) Possession:	21 (Applies to possession of alcoholic beverages of not more than 3.2% alcohol in a public places 21 §1215, 37 §163.11, 37 §537(a)(1), & (5) and 37 §538(e) see the special note below.
Minimum Age (Years) Consumption:	Special Note: Under 37 §537(a)(8) No one may consume (or possess with the intent to consume) alcoholic beverages containing more than 3.2% alcohol in public. Under 37 §246 alcoholic beverages containing less than 3.2% alcohol may not be consumed in public by a person under 21 yrs old unless the person is being directly supervised by either a parent or guardian.

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No):	No
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation):	No
Dram Shop Actions--Social Hosts:	No (No Cases)
Other:	N/A

Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

Type of Criminal Action:	Felony 37 §506(2) <sup>1</sup> , §537(a)(2) & §538(g)
Term of Imprisonment:	1 yr (Maximum) 37 §538
Fine (\$ Range):	\$500-1,000 37 §538(g)

<sup>1</sup>A person who serves "light beer" (a nonintoxicating malt beverage of 1.5% to 3.2% alcohol to an intoxicated person may not have committed an offense under 37 §§537(a)(2) & 538(2); see 37 §§506(2) and 506(12). This matter is not addressed in the laws covering non-intoxicating beverages; see 37 §§163.1 et seq.

STATE - Oklahoma

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages

Withdrawn (Yes/No):

Yes 37 §528

Length of Term of License Withdrawal: At the discretion of the Alcoholic Beverage  
Control Board

Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:

Type of Criminal Action:

For alcoholic beverage 3.2% and above -  
Felony 37 §§537(a)(1) & 538(f); for  
alcoholic beverages 1.5% to 3.2% Misd 37  
§§163.1, 163.11(3), 217 & 241<sup>1</sup>

Term of Imprisonment:

For felony off - Not more than 5 yrs(37  
§538(1)) For misd off - Not more than 6 mos  
(37 §217)

Fine (\$ Range):

For felony off - \$2,500 - \$5,000 (37  
§538(f)) For misd off - Not more than \$500  
(37 §217)

Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages

Withdrawn (Yes/No):

Yes; §§ 242 and 528

Length of Term License Withdrawal:

For the felony offs - in the discretion of the  
alcoholic beverage control board; for the 1/2 of  
1% to 3.2% offs - 12 mos

Anti-Happy Hour Laws/Regulations:

No

Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:

Open Container Law (Yes/No):

Yes 37 §537(a)(7)

Anti-Consumption Law (Yes/No):

Yes, driver and passengers 37 §537(a)(8)  
(The law states that "It shall be unlawful to  
drink intoxicating liquor ... in a public  
place.")

<sup>1</sup>It is a crime to sell such alcoholic beverages to persons under 21 for on-premises  
consumption: It, however, is lawful to sell such alcoholic beverages to persons under 21 for  
off-premises consumption; see OP. ATTY. GEN. Nos. 82-88 and 82-150 (June 2, 1982).

STATE: OREGON  
General Comments: See Oregon Revised Statutes (ORS) & Oregon Vehicle Code (OVC), Chapter 338, Oregon Laws 1983 (As Amended by S.B.100 Enacted in 1985)

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): Yes, 0.08% OVC §587(1)(a)  
Presumption (BAC Level): No  
Types of Drugs/Drugs and Alcohol: (1) A Controlled Substance or (2) a Controlled Substance and Intoxicating Liquor OVC §587(1)(b) & (c)  
Other: Not less than 0.08% constitutes being under the influence of intoxicating liquor, see OVC §590(2)

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: No  
Implied Consent Law:  
Arrest Required (Yes/No): Yes OVC §591  
Implied Consent Law Applies to Drugs (Yes/No): No  
Refusal to Submit to Chemical Test Admitted into Evidence: Yes (Criminal and Civil Cases) OVC §595  
Other Information: N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: None  
Urine: None  
Other: None

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No (There is a diversion from DWI prosecution program for 1st offenders; see below.  
Anti-Plea Bargaining Statute (Yes/No): Yes §484.385 Special Note: There is a diversion program for DWI offenders who have not been convicted of a DWI off w/n a 10-yr period; see OVC §§369 & 270(4)(a)  
Pre-Sentencing Investigation Law (PSI) (Yes/No): Yes OVC §588

Sanctions for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:  
Criminal Sanctions (Fine/Jail): N/A  
Administrative Licensing Action (Susp/Rev): N/A  
Other: N/A

STATE - Oregon

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail): None

Administrative Licensing Action  
(Susp/Rev):

1. Susp for 1 yr if there have been no previous susps for either a test refusal or a DWI off (90 dys are mandatory)<sup>1</sup>
2. Susp for 3 yrs if there has been either a previous test refusal or a previous DWI off based license susp w/n 5 yrs (1 yr is mandatory)<sup>1</sup>; OVC §§148, 171, 173, 358, & 591  
N/A

Other:

Sanctions following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years,  
Etc.):

A DWI off is a C1 A Misd - Not more than 1  
yr OVC §§587(3) & ORS 161.615(1)

Mandatory Minimum Term:

48 hrs OVC §588(2)

Fine:

Amount (\$ Range):

Not more than \$2,500 ORS §161.635(1)(a)<sup>2</sup>

Mandatory Min. Fine (\$):

No

Other Penalties:

Community Service:

80-250 hrs (As an alternative to  
imprisonment); OVC §588(2) & ORS §137.129(4)

Restitution

(ie Victim's Fund)

No

Other:

A \$175 fee is charged in addition to any  
fine imposed; the fee is used to pay for  
intoxicated driver programs and for police  
training; see OVC §§588(1)(a) & 296

<sup>1</sup>A restricted hardship occupation license may be issued after its mandatory periods; see OVC §148(2).

<sup>2</sup>There is also a special assessment of \$40 which must be imposed by the court not withstanding other fines, however, (indigent persons are not required to pay this assessment); see ORS §147.259(1).



STATE - Oregon

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:

Yes - BAC Level of 0.08% 1. A 90 dy susp if there has been no previous susp for either a chemical test refusal, or as Admi. Per Se off, or a DWI off<sup>2</sup>  
2. A 1 yr susp if there has been (w/n 5 yrs.) a previous susp for either a chemical test refusal, an Admin. Per Se off or a DWI off (90 dys are mandatory<sup>1</sup>) OVC §§148, 171, 173, 358, 587, & 591

UVC Type of Provisions:

Yes

Other:

N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action

(Susp/Rev):

1st Off-Susp; 2nd and subsequent offs (w/n 5 yrs)-Susp; Special Note: The State issues special licenses to persons 14-17 yrs old for the purpose of attending educational institutions; the State, it appears, issues such licenses notwithstanding a DWI conviction and the mandatory licensing sanctions provided for such an off if veh transportation is needed by the minor to attend such institutions; see OVC §§353(8) & 354(2)

Term of License Withdrawal

(Days, Months, Years, etc.):

1st Off-1 yr; 2nd and subsequent offs (w/n 5 yrs)-3 yrs. Under OVC 206 & 362(8), a person under 17 but not younger than 13 who is convicted of a DWI offense is subject to the following licensing action: 1st off.-a susp. for 1 yr or until the person reaches 17 whichever is the longer susp. period; 2nd or sub. off.-a susp. for 1 yr or until the person reaches 18 whichever is the longer susp. period.

<sup>1</sup>A restricted hardship occupation license may be issued after is mandatory periods; see OVC §148(2).

<sup>2</sup>A 30 dy susp is mandatory if the defendant within the previous yr has been convicted of a major traffic off. See OVC §148(8).

STATE - Oregon

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Mandatory Minimum Term of Withdrawal:	1st Off-see footnote 1; 2nd Off (w/n 5 yrs)-90 dys <sup>2</sup> ; 3rd and subsequent offs (w/n 5 yrs)-1 yr <sup>2</sup>
Other:	
Rehabilitation:	
Alcohol Education:	Special Note: For second or subsequent DWI offense convictions, an occupational license can be issued only following an examination of the DWI offender by the mental health division to determine if the offender is a problem drinker; if he or she is determined to be a non-problem drinker; the offender must enroll in an alcohol education program. However, if the offender is determined to be a problem drinker, he or she must enroll in a rehabilitation program. The offender must enroll in either of these programs before such a license may be issued. See OVC §328
Alcohol Treatment:	Yes, See Special Note above.
Alcohol Education/ Treatment as an Alternative to Criminal Licensing Actions (Describe):	Yes
Vehicle Impoundment/Confiscation:	
Authorized by Specific Statutory Authority:	Yes, for 2nd or subsequent DWI offs OVC §385(1)(b)
Terms Upon Which Vehicle Will Be Released:	After a period of impoundment of not more than 120 dys and after paying the costs of the veh's removal and storage. See OVC §385(2)
Other:	Special Note: This sanctions also applies where a person has been driving while their driver's license is either suspended or revoked; see OVC §385(1)(a)
Miscellaneous Sanctions Not Included Elsewhere:	Under OVC §386, a person's vehicle registration may be suspended for not more than 120 days for a 2nd or subsequent DWI conviction.

<sup>1</sup>A 30 dy susp is mandatory if the defendant within the previous yr has been convicted of a major traffic off. See OVC §148(8).

<sup>2</sup>A restricted hardship occupational license may be issued after this mandatory period; see OVC §148(4) & (5).

STATE - Oregon

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: No

Sanctions:

Criminal Sanction:

Imprisonment (Term): N/A

Mandatory Minimum Term: N/A

Fine (\$ Range): N/A

Mandatory Minimum Fine: N/A

Administrative Licensing Action:

Licensing Authorized and

Type of Action:

Rev Even though this State does not have a veh homicide statute, it, nevertheless, provides for mandatory license Rev for manslaughter etc. resulting from the operation of a motor veh. OVC §353(1)(a)

Length of Term of

Licensing Withdrawal: 5 yrs

Mandatory Action—Minimum

Length of License

Withdrawal: 5 yrs

Other:

Special Note: OVC §327 on hardship occupational licenses applies only to persons who have had their licenses suspended not revoked; see especially OVC §327(1).

Driving While License Suspended or Revoked

Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): Not more than 5 yrs (C) C felony) OVC §598 §161-605

Mandatory Minimum Term

of Imprisonment: No

Fine (\$ Range): Not more than \$100,000 §161.625

Mandatory Minimum Fine: No

Administrative Licensing Actions:

Type of Licensing Action

(Susp/Rev):

Rev Special Note: For a violation of OVC §598, a defendant's veh may be impounded for not more than 120 dys under OVC §385

Length of Term of License

Withdrawal Action: N/A

Mandatory Term of License

Withdrawal Action: N/A

STATE - Oregon

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Habitual Offender Laws:

State Has Such Law (Yes/No): Yes OVC §§326, 363, 366, 367, & 600  
Grounds for Being Declared an Habitual Offender: (1) Three serious traffic offs (w/n 5 yr period) or (2) A combination of 20 minor and serious traffic offs w/n a 5-yr period) OVC §365

Term of License Rev While Under Habitual Offender Status: 5 yrs (1 yr probationary and renewable license is available if certain conditions are met) OVC §§326 and 366

Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: C1 C felony see OVC §600(3)

Sanctions Following a Conviction of Driving While on Habitual Offender Status:

Imprisonment (Term): 5 yrs §161-605  
Mandatory Minimum Term of Imprisonment: No  
Fine (\$ Range): \$100,000  
Mandatory Minimum Fine (\$): No  
Licensing Actions (Specify): None

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No): Yes  
BAC Chemical Test Is Given to the the Following Persons:  
Driver: Yes (If over 13 yrs of age and within 5 hrs of accident) §146.113  
Vehicle Passengers: Yes (If over 13 yrs of age and within 5 hrs of accident) §146.113  
Pedestrian: Yes (If over 13 yrs of age and within 5 hrs of accident) §146.113

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 21 (Year Eff: 1933) §§471.410 & 471.430  
Minimum Age (Years) Possession: 21 Exemption for either the possession or the consumption of an alcoholic beverage in a private residence accompanied by or with the consent of a parent. §§471.410 & 471.430  
Minimum Age (Years) Consumption: See above under "Minimum Age (Years) Possession"

STATE -- Oregon

Other State Laws Related To Alcohol Use  
And Driving: (continued)

**Dram Shop Laws and Related Legal Actions:**

State Has a Dram Shop Law (Yes/No): Yes \$30.950

"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation):

Yes, Cambell v. Carpenter, 279 Or, 566 P.2d  
893 (1977)

Dram Shop Actions--Social Hosts:

Yes \$30.955 Note: In order to be liable, the  
social host must have served alcoholic beverages  
to a guest who was visibly intoxicated.

Other:

No

**Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

Type of Criminal Action:

1.) C1 A Misd - applies to the sale of  
alcoholic beverages by non-licensed  
persons<sup>1&2</sup>; see §471.410; 2.) Misd -  
applies to individuals and liquor (includes beer  
and wine) "by the drink" licensed  
establishments; §§472.310 & 472.990

Term of Imprisonment:

1.) C1 A Misd - Not more than 1 yr<sup>1</sup> Misd  
1st off- Not more than 6 mos; 2nd or  
subsequent offs - Not more than 1 yr

Fine (\$ Range):

1.) C1 A Misd - Not more than \$2,500<sup>2</sup>;  
Misd 1st off - Not more than \$500; 2nd or  
subsequent offs - Not more than \$1,000

**Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):

Yes, See Special Note on p. 3-274.

<sup>1</sup>For a 3rd off - There is a mandatory imprisonment term of 30 days; see §471.410(3)(c) and (4).

<sup>2</sup>The following mandatory fines apply: 1st off - \$350; 2nd and subsequent off - \$1,000; see §471.410(3)(a), (b), & (c) and (4).

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Length of Term of License Withdrawal: Special Note: Any licensed establishment that either sells liquor by the drink, or packaged alcoholic beverages, that violates the liquor laws concerning intoxicated persons may have their license revoked/suspended for an indeterminate period of the time and/or be fined via administrative action; see §471.385

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action:

1.) Cl A Misd - applies to the sale of alcoholic beverages by non-licensed persons<sup>1&2</sup>; see §471.410; 2.) Misd - applies to individuals and liquor (includes beer and wine) "by the drink" licensed establishments; §§472.310 & 472.990

Term of Imprisonment:

1.) Cl A Misd - Not more than 1 yr<sup>1</sup> Misd 1st off - Not more than 6 mos; 2nd or subsequent offs - Not more than 1 yr

Fine (\$ Range):

1.) Cl A Misd - Not more than \$2,500<sup>2</sup>; Misd 1st off - Not more than \$500; 2nd or subsequent offs - Not more than \$1,000

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):

Yes, See Special Note on p. 3-275.

<sup>1</sup>For a 3rd off - There is a mandatory imprisonment term of 30 days; see §471.410(3)(c) and (4).

<sup>2</sup>The following mandatory fines apply: 1st off - \$350; 2nd and subsequent off - \$1,000; see §471.410(3)(a), (b), & (c) and (4).

STATE - Oregon

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Length of Term of License Withdrawal: Special Note: Any licensed establishment that either sells liquor by the drink, or packaged alcoholic beverages, that violates the liquor laws concerning minimum legal drinking ages may have their license revoked/suspended for an indeterminate period of the time and/or be fined via admin. action; see §472.385.

Anti-Happy Hour Laws/Regulations: No

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):

Yes OVC §597(1)(b)

Anti-Consumption Law (Yes/No):

Yes, driver and passengers OVC §597(1)(a)  
(Excludes passengers riding in a veh used to carry persons for hire)

STATE

PENNSYLVANIA

General Comments:

See Pennsylvania Statutes Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	0.10% 75 §3731(a)(4)
Presumption (BAC Level):	0.10% 75 §1547(d)(3)
Type of Drugs/Drugs and Alcohol:	(1) A Controlled Substance or (2) a Controlled Substance and Alcohol 75 §3731(a)(2) & (3)
Other:	No

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	Yes 75 §154(K)
§ Implied Consent Law:	
Arrest Required (Yes/No):	No
Implied Consent Law Applies to Drugs (Yes/No):	Yes 75 1547(a)
Refusal to Submit to Chemical Test Admitted into Evidence:	Yes (Criminal Cases) 75 §1547(e)
Other Information:	N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes 75 §1547
Urine:	Yes 75 §1547
Other:	No

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No <sup>1</sup>
Anti-Plea Bargaining Statute (Yes/No):	No, but see footnote below
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes 75 §1548

Sanctions for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	No
Administrative Licensing Action (Susp/Rev):	No
Other:	N/A

<sup>1</sup>Accelerated Rehabilitation Disposition (A.R.D.) may not be allowed if: (1) defendant was convicted or accepted A.R.D., because of DWI charge within last 7 yrs; (2) present off violated habitual offender statute; (3) if any person other than defendant was seriously injured or killed. Also a judge may not lessen the charge at preliminary hearing.



STATE -- Pennsylvania

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:	No
UVC Type of Provisions:	No
Other:	No

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail):	No
Administrative Licensing Action (Susp/Rev):	Susp (12 mos) 75 §1547(b)(1) (Mandatory)
Other:	No

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:	Any DWI off is a 2nd degree misd
Term (Day, Month, Years, Etc.):	All offs - not more than 2 yrs; 18 §1104
Mandatory Minimum Term:	All offs - \$300
Fine:	
Amount (\$ Range):	Not more than \$5,000; 18 §1101
Mandatory Min. Fine (\$):	1st off <sup>1</sup> - \$300; 2nd off (w/n 7 yrs.) <sup>2</sup> - \$300; 3rd off (w/n 7 yrs.) <sup>2</sup> - \$300; 4th off (w/n 7 yrs) <sup>2</sup> - \$300 75 §3731(e)
Other Penalties:	
Community Service:	1st off <sup>1</sup> - Possible under A.R.D.
Restitution (eg Victim's Fund)	Not required under A.R.D. (Special Note: Restitution is to be paid by the defendant)

<sup>1</sup>Accelerated Rehabilitation Disposition (A.R.D.). (Pa. Cr. Pro. Rule 175 et seq.) 1) Acceptance into and satisfactory completion of program may lead to dismissal of DWI charge. 2) Acceptance determined by judge after hearing relevant facts of prosecutor, defendant and any victims. Judge also announces terms of A.R.D. 3) "Conditions of program may be such as may be imposed w/respect to probation after conviction ..., including restitution and costs, and may include other conditions agreed to by parties, except that a fine may not be imposed." 4) Programs duration shall not exceed 2 yrs. 5) If defendant is found by Judge, at a hearing, to have violated A.R.D. terms the program will be terminated and the prosecutor may proceed w/the DWI charge(s). 6) When defendant enters A.R.D. program b/c of a DWI charge the Pa. D.O.T. shall keep a record for 7 yrs.

<sup>2</sup>Acceptance of A.R.D. shall be considered a 1st conviction for purposes of computing any subsequent violations. A.R.D. applies only to first offs.

STATE - Pennsylvania

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Other: If a person is in A.R.D. court supervision for at least 6 mos if counseling/treatment not necessary and for not less than 12 mos if counseling or treatment is necessary. 75 §3731

Administrative Licensing Actions

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: No  
UVC Type of Provisions: No  
Other: N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action  
(Susp/Rev): Susp 75 §1532(b)(3)  
Term of License Withdrawal  
(Days, Months, Years, etc.): 12 mos or if accepted into A.R.D. program - 1 mo to 12 mos  
Mandatory Minimum Term of  
Withdrawal: 12 mos or if accepted into A.R.D. program - 1 mo

Other:

Rehabilitation:  
Alcohol Education: Yes<sup>1</sup>  
Alcohol Treatment: Yes<sup>1</sup>  
Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe): Yes<sup>1</sup>  
Vehicle Impoundment/Confiscation:  
Authorized by Specific  
Statutory Authority: No  
Terms Upon Which Vehicle  
Will Be Released: N/A  
Other: N/A  
Miscellaneous Sanctions  
Not Included Elsewhere: N/A

<sup>1</sup>) Every convicted person must take and pass an approved alcohol highway safety class. 2) A Court may order participation (successful) in an individual or group outpatient intervention program to treat substance abuse. Participation may be ordered for up to 2 yrs. 3) If a convicted person is found to be a "chronic" abuser, who represents a "demonstrated and serious" threat, he may be ordered (committed) into treatment at a D.O.H. approved facility. 75 §1548

STATE - Pennsylvania

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes See the following provisions of Pa. law: 18 §§1101, 18 §§1103, 18 §§1104, 75 sec. 3732, and 75 §§3735

Sanctions:

Criminal Sanction:

Imprisonment (Term): Misd 1st degree (non-alcohol related death) - Not more than 5 yrs; Felony 3rd degree (alcohol related death) - Not more than 7 yrs

Mandatory Minimum Term: Misd 1st Degree (non-alcohol related death) - None; Felony 3rd Degree (Alcohol related death) - 3 yrs (75 sec. 3735(b))

Fine (\$ Range): Misd 1st Degree (Non-alcohol Related Death) - not more than \$10,000; Felony 3rd Degree (Alcohol related death) - Not more than \$15,000

Mandatory Minimum Fine: None

Administrative Licensing Action:

Licensing Authorized and Type of Action: Misd 1st Degree (Non-Alcohol Related Death) - Rev; Felony 3rd Degree (Alcohol Related Death) - Rev

Length of Term of Licensing Withdrawal: Misd 1st Degree (Non-Alcohol Related Death) - 1 yr; Felony 3rd Degree (Alcohol Related Death) - 1 yr 75 §1532

Mandatory Action—Minimum Length of License Withdrawal: Misd 1st Degree (Non-Alcohol Related Death) - 1 yr; Felony 3rd Degree (Alcohol Related Death) - 1 yr

Other: N/A

Driving While License Suspended or Revoked

Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): 1st off - None; 2nd and subsequent offs - Not more than 1 yr 75 §1543 and 6503<sup>1</sup>

Mandatory Minimum Term of Imprisonment: None

Fine (\$ Range): 1st off - \$200; 2nd and subsequent offs - \$200 to 1,000

<sup>1</sup>If a person drives on violation of a susp or rev issued as a condition of A.R.D., the following sanctions apply: imprisonment of not less than 90 dys and a fine of \$1,000; see 75 §1543(b). Note: This is a summary off.

STATE - Pennsylvania

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Mandatory Minimum Fine: None  
Administrative Licensing Actions:  
Type of Licensing Action (Susp/Rev): 1st off - Rev; 2nd off - Rev 75 §1543  
Length of Term of License Withdrawal Action: If based on a susp - 6 mos (additional); If based on a rev - 1 yr (additional) 75 §1543(c)<sup>1</sup>  
Mandatory Term of License Withdrawal Action: Same as above  
Habitual Offender Laws:  
State Has Such Law (Yes/No): Yes  
Grounds for Being Declared an Habitual Offender: 3 convictions of any one or more of the following w/in a 5-yr period: 1) veh homicide when DUI; 2) DWI; 3) other offs listed in 75 §1532; 4) operation following registration's susp; 5) using a veh w/out knowledge or consent of owner; 6) using veh for unlawful sale of alcohol or controlled substance; 7) any felony in which veh was essentially involved. 75 §1542  
Term of License Rev While Under Habitual Offender Status: 5 yrs 75 §1542  
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: Summary off 75 §1543  
Sanctions Following a Conviction of Driving While on Habitual Offender Status:  
Imprisonment (Term): 1 yr 75 §6503  
Mandatory Minimum Term of Imprisonment: No  
Fine (\$ Range): \$200 to 1,000 75 §6503  
Mandatory Minimum Fine (\$): No  
Licensing Actions (Specify): 2 yrs additional Rev period 75 §6503

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:  
State Has Such a Law (Yes/No): Yes

<sup>1</sup>Applies also to A.R.D. susp/rev violations.

STATE - Pennsylvania

Other State Laws Related To Alcohol Use  
And Driving: (continued)

BAC Chemical Test Is Given to the  
the Following Persons:

Driver:

Yes (if driver 15 yrs old and died within 4  
hrs of the accident) 75 §3749

Vehicle Passengers:

Yes, but only if the driver of the veh  
cannot be determined 75 §3749

Pedestrian:

Yes (if over 15 yrs old and died within 4  
hrs of the accident) 75 §3749

Laws Establishing the Minimum Ages  
Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase:

21 (Yr eff. 1935) 1 §1991, 18 §6308 and 47  
§4-493(1)

Minimum Age (Years) Possession:

21

Minimum Age (Years) Consumption:

21

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No):

Yes 47 §4-497

"Dram Shop Law" Concept Has Been

Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation):

Yes, *Jardine v. Upper Darby Lodge No. 1973  
Inc.*, 413 Pa. 626, 198 A. 2d 550 (1964)

Dram Shop Actions-Social Hosts:

Yes (Limited) *Congini v. Porterville  
Valve Co.*, 470 A.2d 515 (1983); this case  
limited liability of social hosts to the actions  
of intoxicated minor guests. See also, *Klein v.  
Raysinger*, 470 A.2d 507 (1983); where the court  
found no social host liability for the actions  
of adult guests.

Other:

N/A

Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

Type of Criminal Action:

1st off - Misd 47 §§4-493(1) and 4-494(a)

Term of Imprisonment:

1st off - 1 to 3 mos (for failure to pay  
fine); 2nd and subsequent offs - 3 mos to 1  
yr

Fine (\$ Range):

1st off - \$100 to 500; 2nd and subsequent  
offs - \$300 to 500 (Note: There is also a  
possible civil fine of from \$50 to 1,000, see 47  
§4-471)

STATE - Pennsylvania

Other State Laws Related To Alcohol Use  
And Driving: (continued)

**Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

**License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):**

Yes or liquor control board may impose a  
fine of \$50 to 1,000. (1 yr for location unless  
ownership changes hands, including immediate  
family members.)

**Length of Term of License Withdrawal:** 3 yrs if revoked (1 yr for location unless  
ownership changes hands, including immediate  
family members.) If suspended: indeterminate  
47 §4-471

**Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:**

**Type of Criminal Action:  
Term of Imprisonment:**

1st off - Misd 47 §§4-493(1) and 4-494(a)  
1st off - 1 to 3 mos (for failure to pay  
fine); 2nd and subsequent offs - 3 mos to 1  
yr

**Fine (\$ Range):**

1st off - \$100 to 500; 2nd and subsequent  
offs - \$300 to 500 (Note: There is also a  
possible civil fine of from \$50 to 1,000; see 47  
§4-471)

**Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:**

**License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):**

Yes 47 §4-471

**Length of Term License Withdrawal:**

3 yrs if revoked (1 yr for structure unless  
ownership changes hands, including immediate  
family); if Susp: indeterminate or Liquor  
Control Board may impose a fine; see fine range  
on previous page of \$50 to 1,000.

**Anti-Happy Hour Laws/Regulations:**

No

**Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:**

**Open Container Law (Yes/No):**

No

**Anti-Consumption Law (Yes/No):**

Yes - driver only 75 §3715

STATE:  
General Comments:

PUERTO RICO  
See Laws of Puerto Rico Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	No
Presumption (BAC Level):	0.10% 9 §1041(b)(2)
Types of Drugs/Drugs and Alcohol:	(1) Any Narcotic Drug, (2) Marihuana and (3) Depressing or Stimulating Substance 9 §1045
Other:	No

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	Yes 9 §1043
Implied Consent Law:	
Arrest Required (Yes/No):	Yes 9 §1043
Implied Consent Law Applies to Drugs (Yes/No):	No
Refusal to Submit to Chemical Test Admitted into Evidence:	n.a.
Other Information:	No

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood:	Yes 9 §1043
Urine:	No 9 §1043
Other:	"Any other substance of his body" 9 §1043

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes 9 §1042

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	No
Administrative Licensing Action (Susp/Rev):	No
Other:	No
Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	No
Administrative Licensing Action (Susp/Rev):	Susp - Not more than 2 yrs 9 §1044
Other:	No

STATE - Puerto Rico

Sanctions Following a Conviction for a DWI Offense:

**Criminal Sanctions:**

**Imprisonment:**

Term (Day, Month, Years,  
Etc.):

1st off - 15 dys; 2nd off - 30 dys; 3rd off - 60 dys; 4th or subsequent off - 60 dys to 6 mos; If injury related: 1st off - 30 dys; 2nd off - 60 dys; 3rd and subsequent off - 30 dys to 6 mos; 9 §1042  
All offs - No

**Mandatory Minimum Term:**

**Fine:**

Amount (\$ Range):

1st off - \$100-300; 2nd off - \$200-400; 3rd off - \$300-500; 4th and subsequent offs - \$300-500; If injury caused: 1st off - \$200-500; 2nd off - \$300-500; 3rd and subsequent off - \$300-500; 9 §1042

**Mandatory Min. Fine (\$):**

All offs - No

**Other Penalties:**

**Community Service:**

No

**Restitution**

(eg Victim's Fund)

No

**Other:**

May be ordered to take and pass a driver improvement course

**Administrative Licensing Actions:**

Pre-DWI Conviction Licensing Action:

**Administrative Per Se Law:**

No

**UVC Type of Provisions:**

No

**Other:**

No

Post DWI Conviction Licensing Action:

**Type of Licensing Action**

(Susp/Rev):

Susp (Hardship provision; see 9 §§1042(h) and 1042(i))<sup>1</sup>

**Term of License Withdrawal**

(Days, Months, Years, etc.):

Until defendant participates in and passes a driver improvement course or until the agency in charge of rehabilitation certifies that the defendant is qualified to drive (probably not more than 1 yr). 9 §1042(h)

<sup>1</sup>There are no specific licensing actions for a persons who are convicted of driving while under the influence of "drugs" (9 §1045).



STATE - Puerto Rico

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Mandatory Minimum Term of  
Withdrawal: None

Other:

Rehabilitation:

Alcohol Education: A court may suspend the effects of a 1st conviction if a presenting report indicates rehabilitation ("any kind of treatment, orientation, guidance or advice...") would be effective and defendant voluntarily agrees to undergo rehabilitation. For all other off, if a court determines the defendant would benefit from rehabilitation, court shall suspend the jail penalty if the defendant agrees to undergo rehabilitation. Hospitalization, for up to 3 cons mos, may be ordered if the Court deems such treatment is necessary. 9 §1042

Alcohol Treatment: N/A

Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe): N/A

Vehicle Impoundment/Confiscation:

Authorized by Specific  
Statutory Authority: No  
Terms Upon Which Vehicle  
Will Be Released: N/A  
Other: N/A  
Miscellaneous Sanctions  
Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes 33 §4005

Sanctions:

Criminal Sanction:

Imprisonment (Term): 3 yrs  
Mandatory Minimum Term: None  
Fine (\$ Range): \$3,000  
Mandatory Minimum Fine: None

STATE - Puerto Rico

Other Criminal Actions Related to Alcohol  
Use and Driving: (continued)

Administrative Licensing Action:

Licensing Authorized and  
Type of Action: Rev  
Length of Term of  
Licensing Withdrawal: 1 yr  
Mandatory Action--Minimum  
Length of License  
Withdrawal: 1 yr  
Other: N/A

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): 1st off - 1 to 3 mos; 2nd off - 3 to 6  
mos

Mandatory Minimum Term  
of Imprisonment: No

Fine (\$ Range): 1st off - \$200; 2nd off - \$500

Mandatory Minimum Fine: No

Administrative Licensing Actions:

Type of Licensing Action  
(Susp/Rev): 1st off - probably Rev 9 §691

Length of Term of License  
Withdrawal Action: Indeterminate 9 §691

Mandatory Term of License  
Withdrawal Action: No

Habitual Offender Laws:

State Has Such Law (Yes/No): No

Grounds for Being Declared an  
Habitual Offender: N/A

Term of License Rev While  
Under Habitual Offender Status: N/A

Type of Criminal Offense if  
Convicted on Charges of  
Driving While on Habitual  
Offender Status: N/A

Sanctions Following a Conviction of  
Driving While on Habitual Offender  
Status:

Imprisonment (Term): N/A

Mandatory Minimum Term of  
Imprisonment: N/A

Fine (\$ Range): N/A

Mandatory Minimum Fine (\$): N/A

Licensing Actions (Specify): N/A

STATE - Puerto Rico

Other State Laws Related To Alcohol Use  
And Driving:

Laws Requiring BAC Chemical Tests on  
Those Persons Killed in Fatal Traffic  
Crashes:

State Has Such a Law (Yes/No): Yes 9 §1043  
BAC Chemical Test Is Given to the  
the Following Persons:  
Driver: Yes  
Vehicle Passengers: Yes  
Pedestrian: Yes

Laws Establishing the Minimum Ages  
Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 18 13 §6083 (Year Eff: 1969)  
Minimum Age (Years) Possession: N/A  
Minimum Age (Years) Consumption: N/A

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): No  
"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation): No  
Dram Shop Actions-Social Hosts: n.a.  
Other: No

Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

Type of Criminal Action: N/A  
Term of Imprisonment: N/A  
Fine (\$ Range): N/A

Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): N/A  
Length of Term of License Withdrawal: N/A

Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:

Type of Criminal Action: Misd 13 §6107  
Term of Imprisonment: 30 dys to 6 mos  
Fine (\$ Range): \$100 to 500

STATE - Puerto Rico

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Yes 13 §6093  
Length of Term License Withdrawal: Indeterminate

Anti-Happy Hour Laws/Regulations: No

Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:

Open Container Law (Yes/No): No  
Anti-Consumption Law (Yes/No): No

STATE:  
General Comments:

RHODE ISLAND  
See General Laws of Rhode Island

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	Yes, 0.10% §31-27-2(b)
Presumption (BAC Level):	N/A
Types of Drugs/Drugs and Alcohol:	(1) Any Drug, (2) Toluene, (3) any Controlled Substance and (4) Any Combination of These substances and intoxicating liquor §31-27-2(a)
Other:	N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	Yes §31-27-2.3
Implied Consent Law:	
Arrest Required (Yes/No):	Yes (Implied) §31-27-2.1
Implied Consent Law Applies to Drugs (Yes/No):	Yes §31-27-2.1
Refusal to Submit to Chemical Test Admitted into Evidence:	n.a.
Other Information:	N/A

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood:	Yes (exception on religious grounds.) §31-27-2 and §31-27-2.1
Urine:	Yes §31-27.2 and §31-27.2.1
Other:	No

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	N/A
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes, where a 1 yr or more sentence may be imposed

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	None
Other:	Civil violation, fine-\$15.00; see §31-41-4

STATE - Rhode Island

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail):

1st refusal-\$300-500 and 10-60 hrs of public service; 2nd refusal (w/n a 5 yr period)-\$400-500; 3rd and subsequent refusal (w/n a 5 yr period)- \$500 (Special Note: In addition to the above fines, an assessment fee of \$150 is charged to the defendant.) The imposition of these fines, assessments and/or public community service is mandatory.) §31-27-2.1

Administrative Licensing Action  
(Susp/Rev):

1st Refusal- 3-6 mos susp; 2nd refusal (w/n 5 yr period)- 1-2 yrs Susp; 3rd and subsequent refusal (w/n 5 yr period)- 2-3 yrs Susp; (These susps are mandatory) §31-27-2.1

Other:

1st Refusal-Attendance at a DWI class or alcohol/drug treatment program; 2nd refusal (w/n 5 yr period)-Attendance at an alcohol/drug treatment program; 3rd and subsequent refusal (w/n 5 yr period)-Attendance at an alcohol/drug treatment program (Attendance at these classes or programs is required.)

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years,  
Etc.):

1st off-Not more than 1 yr; 2nd off (w/n 5 yrs)-10 dys-1 yr; 3rd and subsequent offs (w/n 5 yrs)-6 mos-1 yr; §31-27-2(d) (Note: A DWI off is a misd) For persons under 18 see Misc. Sanctions below.

Mandatory Minimum Term:

1st off-No; 2nd off (w/n 5 yrs)-48 cons hrs; 3rd and subsequent offs (w/n 5 yrs)-48 cons hrs

Fine:

Amount (\$ Range):

1st off-\$200; 2nd off (w/n 5 yrs)-\$500; 3rd and subsequent offs (w/n 5 yrs)- \$500<sup>1</sup>

Mandatory Min. Fine (\$):

1st off-\$200; 2nd off (w/n 5 yrs)-\$500; 3rd and subsequent offs (w/n 5 yrs)-\$500; (In addition th the above fines, an assessment fee of \$150 is charged to the defendant.) §31-27-2(d)

<sup>1</sup>The defendant must also pay a fee of either \$20 or 10% of the fine imposed which ever is the greater amount. This fee is for the purpose of supporting the fund which compensates victims of violent crimes such as DWI related deaths or injuries; see §12-25-12(c).

STATE - Rhode Island

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Other Penalties:

Community Service: 1st off - 10-60 hrs

Restitution  
(eg Victim's Fund) Yes, Victim's compensation fund; see  
§12-25-1 et seq.<sup>1</sup>

Other: N/A

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: No

UVC Type of Provisions: Yes

Other: N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action  
(Susp/Rev): Susp all offs For persons under 18, see  
Misc. Sanctions below.

Term of License Withdrawal  
(Days, Months, Years, etc.): 1st off - 3-6 mos; 2nd off - 1-2 yrs;  
3rd off - 2-3 yrs; §31-27-2(d)

Mandatory Minimum Term of  
Withdrawal: 1st off - 3 mos; 2nd off - 1 yr; 3rd off  
- 2 yrs; §31-27-2(d)

Other:

Rehabilitation:

Alcohol Education: 1st off - Alcohol (DWI)/drug education course  
and/or treatment program (Required)

Alcohol Treatment: 2nd off-Yes (Required); 3rd off-Yes  
(Required)

Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe): N/A

<sup>1</sup>Award limited to \$25,000 plus attorney's fees; see §12-25-6(b).

STATE - Rhode Island

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Vehicle Impoundment/Confiscation:

Authorized by Specific

Statutory Authority: No

Terms Upon Which Vehicle

Will Be Released: N/A

Other: N/A

Miscellaneous Sanctions

Not Included Elsewhere: N/A The following sanctions apply to persons convicted of DWI who are under 18 years old: 1st off.-a fine of not more than \$250, 10-60 hrs. of community service & a 6 mon. lic. susp. (mandatory); 2nd and sub. off.-confinement in a training school for not more than one (1) yr., a fine of not more than \$500 & a one (1) yr lic. susp. (mandatory). See §31-27-1(d)(a) & (b).

Other Criminal Actions Related to Alcohol

Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of off: Yes

Criminal Sanction:

Imprisonment (Term): 1) Death related DWI offs, 1st off - 6 mos-10 yrs; 2nd and subsequent (w/n 5 yrs) - 5-20 yrs; 2) Non-DWI related driving causing death-Not more than 10 yrs 31-27-1

Mandatory Minimum Term: None

Fine (\$ Range): Death related DWI offs, 1st off - \$500-5,000; 2nd and subsequent (w/n 5 yrs) - \$800-5,000

Mandatory Minimum Fine: None

Administrative Licensing Action:

Licensing Authorized and

Type of Action: Death related DWI offs, 1st off - Rev; 2nd and subsequent (w/n 5 yrs) - Rev; Non-DWI related driving causing death - Rev; 31-11-6

Length of Term of

Licensing Withdrawal: Death related DWI offs, 1st off - 3 yrs; 2nd and subsequent offs (w/n 5 yrs) - 5 yrs; Non-DWI related driving causing death - 3 yrs



STATE - Rhode Island

Other Criminal Actions Related to Alcohol  
Use and Driving: (continued)

Mandatory Action--Minimum Length of License Withdrawal:	Death related DWI offs, <u>1st off - 3 yrs; 2nd and subsequent offs (w/n 5 yrs) - 5 yrs;</u> Non-DWI related driving causing death - 3 yrs N/A
Other:	
Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:	
Sanction:	
Criminal:	
Imprisonment (Term):	<u>1st off (Misd)-10 dys; 2nd off (w/n 5 yrs) (Misd)-6 mos-1 yr; 3rd and subsequent offs (w/n 5 yrs) (felony)-1 yr §31-11-18.1; (Rev, etc. due to DWI conviction, refusal to submit to chemical test, reckless driving, motor veh manslaughter, or 3 moving violations in one yr.)</u>
Mandatory Minimum Term of Imprisonment:	<u>1st off-10 dys; 2nd off (w/n 5 yrs)-6 mos; 3rd and subsequent offs (w/n 5 yrs)-1 yr; §31-11-18.1(d)</u>
Fine (\$ Range):	<u>1st off - \$500; 2nd off (w/n 5 yrs)- \$500; 3rd and subsequent offs (w/n 5 yrs) \$1,000; §31-11-18.1</u>
Mandatory Minimum Fine:	<u>1st off-\$500; 2nd off (w/n 5 yrs)-\$500; 3rd and subsequent offs (w/n 5 yrs)- \$1,000; §31-11-18.1(d)</u>
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	<u>1st off-Susp; 2nd off (w/n 5 yrs)-Susp; 3rd and subsequent offs (w/n 5 yrs)-Rev; §31-11-18.1</u>
Length of Term of License Withdrawal Action:	<u>1st off-"Time deemed proper" (additional susp period); 2nd off (w/n 5 yrs)-Dept. of Motor Vehicles' discretion (additional susp period) 1 yr; 3rd and subsequent offs (w/n 5 yrs)-1 yr (additional rev period); §31-11-18.1</u>
Mandatory Term of License Withdrawal Action:	<u>1st off-3 mos; 2nd off (w/n 5 yrs)-6 mos; 3rd and subsequent offs (w/n 5 yrs)-1 yr; §31-11-18.1</u>

STATE - Rhode Island

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Habitual Offender Laws:

State Has Such Law (Yes/No):	Yes
Grounds for Being Declared an Habitual Offender:	Three or more convictions within 3 yrs for any of the following: 1) Motor veh manslaughter; 2) DWI (alcohol or drugs); 3) Driving while license suspended or revoked; 4) Willfully operating a motor veh without a license; 5) any felony off using a motor veh; 6) failure to stop and report death/injury after accident driver was involved in; 7) failure of driver to stop and report accident where damages = \$150 or more. §31-40-1 to 31-4-13
Term of License Rev While Under Habitual Offender Status:	1-5 yrs
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	Felony
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	5 yrs (maximum)
Mandatory Minimum Term of Imprisonment:	No, but if an imprisonment sentence is given it may not be suspended or deferred except to save a life
Fine (\$ Range):	None
Mandatory Minimum Fine (\$):	None
Licensing Actions (Specify):	No apparent specific provision: but see 31-11-18: driving after denial, generally a 1 yr extension of rev

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No):	Yes §23-4-9
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes
Vehicle Passengers:	Yes
Pedestrian:	Yes

STATE - Rhode Island

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Laws Establishing the Minimum Ages  
Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 21 (Year Eff: 1984)  
Minimum Age (Years) Possession: 21, Applies to the possession of alcoholic  
beverages containing more than 3.2% alcohol  
§§3-8-5, -6, & -10  
Minimum Age (Years) Consumption: 21, Applies to licensed premises

Dram Shop Laws and Related Legal Actions:  
State Has a Dram Shop Law (Yes/No):

Yes; §3-11-1 (Note: Liability limited to  
\$200,000 if the license can show by a  
perponderance of the evidence that the person  
served was not visibly intoxicated.)

"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation):

No

Dram Shop Actions-Social Hosts:  
Other:

Possible statutory liability §3-11-1  
No

Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

Type of Criminal Action: 1st off-Petty Misd; 2nd off-Petty Misd;  
3rd and Subsequent offs-Misd; §§ 3-8-1,  
3-11-5 & 11-1-2  
Term of Imprisonment: 1st off-3 mos; 2nd off-6 mos; 3rd and  
subsequent offs-Not more than 1 yr  
Fine (\$ Range): 1st off-Not more than \$200; 2nd off-Not more  
than \$300; 3rd and subsequent offs-Not more  
than \$500

Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Yes §3-3-21  
Length of Term of License Withdrawal: 1 yr §3-5-22

STATE - Rhode Island

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:

Type of Criminal Action:

1st off-Petty Misd; 2nd off-Misd; 3rd  
and subsequent offs-Felony; §§3-8-1, 3-8-5 &  
11-1-2

Term of Imprisonment:

N/A

Fine (\$ Range):

1st off-\$250; 2nd off-\$500; 3rd and  
subsequent offs-\$750 (If no offs in 3  
successive yrs, next off shall be treated as  
1st.)

Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages

Withdrawn (Yes/No):

Yes; §3-5-22

Length of Term License Withdrawal:

1 yr; §3-5-22

Anti-Happy Hour Laws/Regulations:

Yes P.L. 85-345

Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:

Open Container Law (Yes/No):

No

Anti-Consumption Law (Yes/No):

Yes - Driver §31-22-21

STATE:  
General Comments:

SOUTH CAROLINA  
See Code of Laws of South Carolina Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): No  
Presumption (BAC Level): 0.10% §56-5-2950(b)(3)  
Types of Drugs/Drugs and Alcohol: (1) Narcotic Drugs, (2) Barbiturates and (3) Paraldehdes  
Other: No

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: No  
Implied Consent Law:  
Arrest Required (Yes/No): Yes  
Implied Consent Law Applies to  
Drugs (Yes/No): No  
Refusal to Submit to Chemical Test  
Admitted into Evidence: Yes (Criminal Cases) State v. Miller,  
185 S.E.2d 359 (1971)  
Other Information: No

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood: No  
Urine: No  
Other: No

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No  
Anti-Plea Bargaining Statute (Yes/No): No  
Pre-Sentencing Investigation Law (PSI)  
(Yes/No): Yes §56-5-2990

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test:  
Criminal Sanctions (Fine/Jail): N/A  
Administrative Licensing Action  
(Susp/Rev): N/A  
Other: N/A  
  
Refusal to Take Implied Consent  
Chemical Test  
Criminal Sanction (Fine/Jail): No  
Administrative Licensing Action  
(Susp/Rev): 90-day susp of license (Mandatory)  
§56-5-2950(d)  
Other: No

STATE - South Carolina

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years,  
Etc.):

1st off-48 hrs-30 dys; 2nd off (w/n 5 yrs)-48 hrs-1 yr; 3rd off (w/n 5 yrs)-60 dys-3 yrs; 4th off (w/n 5 yrs)-90 dys-4 yrs; 5th and subsequent off (w/n 5 yrs)- 1-5 yrs §56-5-2940; DWI where there is great bodily injury-felony, 30 dys-1 yr; §56-5-2940

Mandatory Minimum Term:

1st off-48 hrs; 2nd off-48 hrs; 3rd off-60 dys; 4th off-90 dys; 5th and subsequent offs-1 yr; DWI where there is great bodily injury-30 dys; See footnote below

Fine:

Amount (\$ Range):

1st off-\$200; 2nd off-Not less than \$1,000; 3rd off-Not less than \$2,000; 4th off-Not less than \$3,000; DWI where there is great bodily injury-\$5,000-10,000

Mandatory Min. Fine (\$):

1st off-\$200<sup>1</sup>; 2nd off-No; 3rd off-No; 4th off-No; DWI where is great bodily injury-\$5,000

Other Penalties:

Community Service:

1st off-A minimum of 48 hrs in lieu of imprisonment; 2nd off-Not less than 10 dys in lieu of imprisonment

Restitution  
(eg Victim's Fund)

No

Other:

N/A

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:

No

UVC Type of Provisions:

No

Other:

N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action

(Susp/Rev):

1st off<sup>2</sup>-Susp; 2nd off<sup>2</sup> (w/n 5 yrs)-Susp; 3rd off<sup>2</sup> (w/n 5 yrs)-Susp; 4th off<sup>2</sup> (w/n 5 yrs)-Susp; 5th and subsequent offs<sup>2</sup> (w/n 5 yrs)-Rev

<sup>1</sup>These minimum sanctions may not be suspended by the Court; the law is silent as to prohibiting the Court from placing a person on probation.

<sup>2</sup>Note: An off is considered either a §56-5-2930, §56-5-2945 or other alcohol use and driving related law violation. §56-1-1320, 56-5-2990.

STATE - South Carolina

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Term of License Withdrawal  
(Days, Months, Years, etc.): 1st off-6 mos; 2nd off (w/n 5 yrs)-1 yr;  
3rd off (w/n 5 yrs)-2 yrs; 4th off (w/n 5  
 yrs)-3 yrs; 5th and subsequent offs (w/n 5  
 yrs)-Permanent

Mandatory Minimum Term of  
Withdrawal: 1st off - For a 1st DWI off, a provisional  
license may be issued for the 6-mo susp period  
provided the defendant participates in an  
alcohol/drug education/treatment program (see  
§§56-1-1320 and 56-1-1330); 2nd off (w/n 5  
 yrs)-1 yr; 3rd off (w/n 5 yrs)-2 yrs; 4th  
off (w/n 5 yrs)-3 yrs; 5th and subsequent offs  
(w/n 5 yrs)-5 yrs

Other:

Rehabilitation:

Alcohol Education:

(1) For suspended licensed drivers, a  
successful completion of an Alcohol and Drug  
Safety Action Program prior to license  
reinstatement (or a special recommendation by  
the Medical Advisory Board before the license is  
restored; and (2) For revoked licensed drivers,  
the license may be reinstated after 5 yrs  
provided such drivers have been rehabilitated.  
See §56-5-2990.

Alcohol Treatment:

Yes see above

Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe):

Yes 1st off only

Vehicle Impoundment/Confiscation:

Authorized by Specific

Statutory Authority:

No

Terms Upon Which Vehicle

Will Be Released:

N/A (Note: Veh impoundment used only to  
protect a veh from danger)

Other:

N/A

Miscellaneous Sanctions

Not Included Elsewhere:

N/A

STATE - South Carolina

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of offense: Yes, Felony §56-5-2945; Based on a DWI off  
that results in death

Sanctions:

Criminal Sanction:

Imprisonment (Term): Not more than 1-15 yrs  
Mandatory Minimum Term: No  
Fine (\$ Range): \$10,000 to \$25,000  
Mandatory Minimum Fine: No

Administrative Licensing Action:

Licensing Authorized and  
Type of Action: Rev §56-5-2910  
Length of Term of  
Licensing Withdrawal: 5 yrs §56-5-2910  
Mandatory Action—Minimum  
Length of License  
Withdrawal: 5 yrs §56-5-2910  
Other: N/A

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): 1st off-30 dys; 2nd off-Not more than 60  
dys; 3rd and subsequent off-45 dys to 6  
mos; §56-1-460  
Mandatory Minimum Term  
of Imprisonment: None  
Fine (\$ Range): 1st off-\$100; 2nd off-\$500; §56-1-460  
Mandatory Minimum Fine: None

Administrative Licensing Actions:

Type of Licensing Action  
(Susp/Rev): Susp/Rev

Length of Term of License  
Withdrawal Action: Susp for a like period of time if the  
original susp was for a definite period of  
time. If not, then a susp for 3 mos. If  
license was revoked, a new license shall not be  
issued for an additional 1 yr from the date  
such person would have otherwise been entitled  
to apply for a new license. §56-1-460.

Mandatory Term of License  
Withdrawal Action: None



STATE - South Carolina

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Habitual Offender Laws:

State Has Such Law (Yes/No):	Yes
Grounds for Being Declared an Habitual Offender:	3 or more serious off convictions or 10 or more convictions for violations rated at 4 points or more under the point system within a period of 3 yrs
Term of License Rev While Under Habitual Offender Status:	5 yrs and until the court thereafter restores the driving privilege
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	Misd
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	1 yr to 5 yrs
Mandatory Minimum Term of Imprisonment:	None
Fine (\$ Range):	N/A
Mandatory Minimum Fine (\$):	N/A
Licensing Actions (Specify):	N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No):	Yes
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes
Vehicle Passengers:	Yes
Pedestrian:	Yes

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase:	21 (Year Eff. 1986)
Minimum Age (Years) Possession:	21 (Exemptions for home use and for religious ceremonies and employment (the employment exemption applies only to persons over 18 years old).) §§20-7-320,-317,-370,-380, and §§61-9-40, and 61-13-290
Minimum Age (Years) Consumption:	N/A

STATE - South Carolina

Other State Laws Related To Alcohol Use  
And Driving:(continued)

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): No

"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation):

Possible case law via injury to an intoxicated  
patron where there was an illegal sale; see  
Christiansen v. Cambell, 328 S.E.2d 351 (1985)

Dram Shop Actions--Social Hosts:

No (No Cases)

Other:

N/A

Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

Type of Criminal Action:

For alcoholic liquors--(Misd), See §§66-3-990,  
61-5-30 & 61-5-110; For nonintoxicating  
beverages<sup>1</sup>, see §61-9-410

Term of Imprisonment:

For alcoholic liquors--Not more than 30 dys;  
For nonintoxicating beverages--Not less than 3  
mos §61-13-870

Fine (\$ Range):

1.) For alcoholic liquors--Not more than  
\$100; 2.) If the person is a licensee, 1st  
off--\$200-500; 2nd off (w/n 3  
yrs)--\$200-500; 3rd off (w/n 3 yrs)--Not less  
than \$500; 3.) For nonintoxicating  
beverages--Not less than \$100 §61-13-870

Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages

Withdrawn (Yes/No):

For Liquor - Yes; For Beer and Wine - Yes

Length of Term of License Withdrawal:

For Alcoholic Liquors, 1st off - 30 dys; 2nd  
off (w/n 3 yrs) - 180 dys; 3rd off (w/n 3  
yrs) - Permanently; For nonintoxicating  
beverages - License rev or administrative  
monetary penalty of \$25 to 1,000; §61-13-510

Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:

Type of Criminal Action:

Alcoholic Liquors--(Misd); See §61-3-990, &  
61-13-290 and 1970-71 ops Atty Gen. no. 3225 p.  
207; nonintoxicating beverages<sup>1</sup> See  
§§61-9-410 and 61-90-40 and footnote on p. 3-303.

STATE - South Carolina

Other State Laws Related To Alcohol Use  
And Driving:(continued)

Term of Imprisonment:	Alcoholic Liquors--Not more than 5 yrs; Nonintoxicating beverages <sup>1</sup> --30-60 dys; §§61-9-410 & 61-90-40
Fine (\$ Range):	Alcoholic Liquors--Not more than \$5,000; Nonintoxicating beverages <sup>1</sup> --\$100-200
Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes
Length of Term License Withdrawal:	Alcoholic Liquors, <u>1st off</u> --1 yr or a \$250 administrative monetary penalty (Special Note: Liquor licensees may have to pay from \$100 to \$1,500 as an alternative to license rev; see §61-13-510), §61-15-500, §61-13-510; <u>Subsequent offs</u> --2 yrs or \$500 administrative monetary penalty; Nonintoxicating beverages <sup>1</sup> license withdrawal or administrative monetary penalty or from \$25 to \$1,000
Anti-Happy Hour Laws/Regulations:	No
Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:	
Open Container Law (Yes/No):	Yes §§61-5-20 & 61-9-87
Anti-Consumption Law (Yes/No):	Possible, Driver and passengers §61-13-360; The law states that "Any person who drinks alc.liquors in any public conveyance shall be deemed guilty of a misd." This provision does not apply to railroad dining or club cars or to commercial aircraft.

<sup>1</sup>Applies only to beer not in excess of 5% alcohol and wine not in excess of 21% alcohol; see §61-9-10. Note: The term "Alcoholic Liquors" applies to all other alcoholic beverages, see §61-3-20(1).

STATE:  
General Comments:

**SOUTH DAKOTA**  
See South Dakota Codified Laws

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	0.10% §32-23-1(1)
Presumption (BAC Level):	0.10% §32-23-7 (Note: §32-23-7 applies this presumption to the veh homicide off.)
Types of Drugs/Drugs and Alcohol:	(1) Any Substance, (2) Any Controlled Substance, (3) Marijuana or (4) a Combination of These Substances and an Alcoholic Beverage §32-23-1(3) & (4)
Other:	No

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	Yes §32-23-1.2
Implied Consent Law:	
Arrest Required (Yes/No):	Yes §32-23-10
Implied Consent Law Applies to Drugs (Yes/No):	Yes 32-23-10
Refusal to Submit to Chemical Test Admitted into Evidence:	Yes 32-23-10
Other Information:	N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes §32-23-10
Urine:	No §32-23-10
Other:	"Other bodily substances" §32-23-10

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No (Note: A DWI charge may be reduced or dismissed only when written reasons for such have been file with the Court)
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes (discretionary)

Sanctions for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	No
Administrative Licensing Action (Susp/Rev):	No
Other:	N/A

STATE - South Dakota

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail):	N/A
Administrative Licensing Action (Susp/Rev):	1 yr (Rev - A restricted hardship license is available.) §32-23-11
Other:	No

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years,  
Etc.):

1st off CI I Misd-1 yr (county jail); 2nd  
off (w/n 5 yrs) CI I Misd-1 yr (county  
jail); 3rd and subsequent off CI 6 Felony (w/n 5  
yrs) - 2 yrs state penitentiary §22-6-1,  
22-6-2, 32-23-2, 32-23-3, 32-23-4

Mandatory Minimum Term:

None

Fine:

Amount (\$ Range):

1st off-\$1,000; 2nd off (w/n 5 yrs)-  
\$1,000; 3rd and subsequent off (w/n 5 yrs)-  
\$2,000

Mandatory Min. Fine (\$):

None

Other Penalties:

Community Service:

N/A

Restitution

(eg Victim's Fund)

Yes §§23-A-28-1 et seq.

Other:

N/A

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:

No

UVC Type of Provisions:

No

Other:

N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action

(Susp/Rev):

1st off-Prohibit driving or rev<sup>1</sup>; 2nd off-  
Rev (no hardship license); 3rd  
off<sup>2</sup>-Rev (no hardship license) (Special  
Note: Susp-If 15 points accumulated in 12 cons  
mos or 22 points in 24 cons mos; DWI=10 points)

Term of License Withdrawal

(Days, Months, Years, etc.):

1st off-30 dys-1 yr; 2nd off -1 yr; 3rd  
off + - 1+ yr (Under the point system susp 1  
yr) §32-23-2, §32-23-3 and §32-23-4

<sup>1</sup>A restricted hardship license is available. See §§32-23-2, 32-23-3 and 32-23-4

STATE - South Dakota

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Mandatory Minimum Term of  
Withdrawal:

1st off - None; 2nd off - 1 yr; 3rd  
plus - 1 yr<sup>1</sup>; (Under the point system  
susp - No) §§32-23-2, 32-23-3, and 32-23-4

Other:

Rehabilitation:

Alcohol Education: N/A  
Alcohol Treatment: N/A  
Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe): N/A

Vehicle Impoundment/Confiscation:

Authorized by Specific  
Statutory Authority: No/  
Terms Upon Which Vehicle  
Will Be Released: N/A  
Other: N/A  
Miscellaneous Sanctions  
Not Included Elsewhere: N/A

<sup>1</sup>The defendant's license is to be revoked not less than one (1) year from the date of final discharge; see §32-23-4.

STATE - South Dakota

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes, C1 4 felony where death is caused by veh operation while under the influence of alcohol or drugs. §22-16-41

Sanctions:

Criminal Sanction:

Imprisonment (Term): Not more than 10 yrs  
Mandatory Minimum Term: N/A  
Fine (\$ Range): Not more than \$10,000  
Mandatory Minimum Fine: N/A

Administrative Licensing Action:

Licensing Authorized and  
Type of Action: Rev §§32-12-44 and 32-12-52<sup>1</sup>  
Length of Term of  
Licensing Withdrawal: 1 yr  
Mandatory Action--Minimum  
Length of License  
Withdrawal: 1 yr  
Other: N/A

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): C1 1 Misd -- Not more than 1 yr §§32-6-2(1)  
& 32-23-5

Mandatory Minimum Term  
of Imprisonment:

3 days if the original licensing action was for a 2nd DWI offense (§32-23-3) and 10 days if the original licensing action was for a 3rd DWI offense (§32-23-4).

Fine (\$ Range): Not more than \$1,000  
Mandatory Minimum Fine: N/A

Administrative Licensing Actions:

Type of Licensing Action  
(Susp/Rev):

Susp--if the conviction was based on driving while suspended; Rev--if the conviction was based on driving while revoked §32-12-66<sup>2</sup>

Length of Term of License

Withdrawal Action:

(An additional susp period equal to the original period. The original rev period extended for 1 yr. §32-12-66<sup>2</sup>)

<sup>1</sup>§32-12-52 applies the license rev provisions specifically to manslaughter from the operation of a motor veh; it is, therefore, unclear whether these provisions apply to the crime of veh homicide which is a separate off (not manslaughter).

<sup>2</sup>The license revs/susps of §32-12-66 may apply only to the general off of driving while revoked/suspended license under §32-12-64 and not to §32-23-5 which applies only to driving while revoked/suspended following a DWI off conviction.

STATE - South Dakota

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Mandatory Term of License Withdrawal Action: (An additional susp period equal to the original period. The original rev period extended for 1 yr. §32-12-66 See Footnote No. 2 on p. 3-307.)

Habitual Offender Laws:  
 State Has Such Law (Yes/No): No  
 Grounds for Being Declared an Habitual Offender: N/A  
 Term of License Rev While Under Habitual Offender Status: N/A  
 Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: N/A  
 Sanctions Following a Conviction of Driving While on Habitual Offender Status:  
     Imprisonment (Term): N/A  
     Mandatory Minimum Term of Imprisonment: N/A  
     Fine (\$ Range): N/A  
     Mandatory Minimum Fine (\$): N/A  
     Licensing Actions (Specify): N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:  
 State Has Such a Law (Yes/No): Yes §39-25-22.1  
 BAC Chemical Test is Given to the the Following Persons:  
     Driver: Yes  
     Vehicle Passengers: Yes  
     Pedestrian: Yes



STATE - South Dakota

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Laws Establishing the Minimum Ages  
Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 19 for 3.2% beer; 21 for all other alcoholic beverages. (Yr Eff: 1984) §§35-4-78: 35-9-1,-2,-4

Minimum Age (Years) Possession: 19 for 3.2% beer; 21 for all other alcoholic beverages. There is an exemption for the possession alcoholic beverages greater than 3.2% alcohol by persons under 21 yrs of age for religious ceremonies §§35-4-78: 34-9-1: 35-9-2 & 35-9-4

Minimum Age (Years) Consumption: 19 for 3.2% beer; 21 for all other alcoholic beverages. (Exemption for the consumption of alcoholic beverages greater than 3.2% alcohol by persons under 21 yrs of age for religious ceremonies.) §§35-4-78, 35-9-1, 35-9-2, and 35-9-4

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): No<sup>1</sup> §35-11-1

"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation): No<sup>1</sup>

Dram Shop Actions-Social Hosts: No §35-11-2

Other: N/A

Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

Type of Criminal Action: CI 1 Misd §35-4-78

Term of Imprisonment: 1 yr (County jail)

Fine (\$ Range): \$1,000

Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Yes §35-2-10

Length of Term of License Withdrawal: 1 yr §35-2-20

<sup>1</sup>Case law establishing civil liability, Walz v. City of Hudson, 327. N.W. 2d 12 (S.D. 1982), was specifically abrogated by statute.

STATE -- South Dakota

Other State Laws Related To Alcohol Use  
And Driving: (continued)

**Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:**

**Type of Criminal Action:**

CI 2 Misd (generally); CI 1 Misd (for  
licensees); §§22-6-2, 35-4-78 & 35-9-1

**Term of Imprisonment:**

CI 2 Misd-30 dys (county jail); CI 1  
Misd-1 yr (county jail)

**Fine (\$ Range):**

CI 2 Misd-\$100; CI 1-Misd \$1,000

**Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:**

**License to Serve Alcoholic Beverages**

**Withdrawn (Yes/No):**

Yes §35-2-10

**Length of Term License Withdrawal:**

1 yr §35-2-20

**Anti-Happy Hour Laws/Regulations:**

No

**Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:**

**Open Container Law (Yes/No):**

Yes §35-1-9.1

**Anti-Consumption Law (Yes/No):**

No

STATE:  
General Comments:

TENNESSEE  
See Tennessee Code Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	No
Presumption (BAC Level):	0.10% §55-10-408(b)
Types of Drugs/Drugs and Alcohol:	(1) Any Intoxicant, (2) Marijuana, (3) Narcotic Drug and (4) Stimulating Drugs (listed in §55-10-401(b)) §55-10-401(a)
Other:	No

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	No
Implied Consent Law:	
Arrest Required (Yes/No):	No (The officer may request a test based on reasonable grounds; see §55-10-406(a).)
Implied Consent Law Applies to Drugs (Yes/No):	Yes 55-10-405(5)
Refusal to Submit to Chemical Test Admitted into Evidence:	No Crawley v. State, 413 S.W. 2d 370 (1967)
Other Information:	No

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes 55-10-405(5)
Urine:	Yes 55-10-405(5)
Other:	No

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	Yes §§55-10-403(b)(1) and 55-7-116
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	N/A

Sanctions for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	N/A
Administrative Licensing Action (Susp/Rev):	N/A
Other:	N/A

STATE - Tennessee

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail):  
Administrative Licensing Action  
(Susp/Rev):

None

Susp, 1st Refusal - Not more than 6 mos;  
2nd Refusals + - Not more than 1 yr §§55-  
7-113(g) & 55-10-406; A restricted license may  
be issued; see §55-10-406(d)

Other:

N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years,  
Etc.):

1st off-48 hrs-11 mos 29 dys; 2nd off (w/n  
10 yrs)-45 dys-11 mos 29 dys; 3rd and  
subsequent off (w/n 10 yrs) - 120 dys-11 mos  
29 dys §55-10-403

Mandatory Minimum Term:

1st off-48 hrs; 2nd off (w/n 10 yrs)-45  
dys; 3rd and subsequent off (w/n 10 yrs)-120  
dys

Fine:

Amount (\$ Range):

1st off-\$250-1,000; 2nd off (w/n 10  
yrs)-\$500-2,500; 3rd and subsequent off (w/n  
10 yrs)-\$1,000-5,000; §55-10-403

Mandatory Min. Fine (\$):

1st off-\$250; 2nd off (w/n 10 yrs)-\$500;  
3rd and subsequent off (w/n 10 yrs)-\$1,000  
(unless judge determines defendant is indigent)

Other Penalties:

Community Service:

After serving the minimum sentence, a judge may  
order the defendant to remove litter from  
various public areas or work in a recycling  
center or "other appropriate location" for any  
period of time in lieu of or in additional to  
other penalties. The community service work  
may be done at non-working hrs. §55-10-104

Restitution

(eg Victim's Fund):

Yes - A victim's compensation fund; see  
§§29-13 101 et seq. and 40-24-107(a)(3). Also,  
the defendant shall be ordered to pay  
restitution as a condition of probation  
(probation may commence only after minimum jail  
sentence has been serve) if defendant can afford  
it; §55-10-403

Other:

Upon conviction all defendants in counties with  
600,000 or more people and in counties with a  
metropolitan form of government, must pay a BAC  
test fee of \$10. This fee is paid to the  
county. §55-10-403

STATE - Tennessee

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: No  
UVC Type of Provisions: Yes  
Other: N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action  
(Susp/Rev): Rev §55-10-403, §55-7-113

Term of License Withdrawal  
(Days, Months, Years, etc.): 1st off - 1 yr; 2nd off (w/n 10 yrs) - 2 yrs; 3rd and subsequent offs (w/n 10 yrs) - 3 to 10 yrs; §55-10-403, §55-7-112

Mandatory Minimum Term of  
Withdrawal: 1st off - 1 yr<sup>1</sup>; 2nd off - 2 yrs; 3rd and subsequent offs - 3 yrs

Other:

Rehabilitation:

Alcohol Education: Yes see below  
Alcohol Treatment: Yes, participation in an alcohol safety DWI prog. is required as part of probation (probation can begin only after serving the min. imprisonment term). For 2nd and subsequent convictions, a condition of probation is participation in a rehab prog. treatment facility.<sup>2</sup>

Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe): N/A

Vehicle Impoundment/Confiscation:

Authorized by Specific  
Statutory Authority: No  
Terms Upon Which Vehicle  
Will Be Released: N/A  
Other: N/A  
Miscellaneous Sanctions  
Not Included Elsewhere: N/A

<sup>1</sup>Hardship license for employment available after 1st conviction if no one was killed or seriously injured as a result of the DWI off. §55-10-403, §55-7-113

<sup>2</sup>For 2nd and subsequent convictions rev will be lifted only upon showing that defendant has participated in a program of rehabilitation at an alcohol treatment facility. §55-10-403

STATE - Tennessee

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Off: Yes §39-2-231  
Sanctions:  
Criminal Sanction:  
Imprisonment (Term): 1 to 21 yrs §39-2-232  
  
Mandatory Minimum Term: No  
Fine (\$ Range): No  
Mandatory Minimum Fine: No

Administrative Licensing Action:

Licensing Authorized and  
Type of Action: Rev §55-7-112  
Length of Term of  
Licensing Withdrawal: Equals term of sentence received. If  
paroled, the defendant may have their license  
reissued upon satisfactory completion of  
licensing exam and on petition of defendant's  
parole officer. §55-7-112  
  
Mandatory Action--Minimum  
Length of License  
Withdrawal: 1 yr  
Other: N/A

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Off:

Sanction:  
Criminal:  
Imprisonment (Term): 1st off - 2 dys to 6 mos; 2nd off - 45 dys  
to 11 mos 29 dys; §55-7-116  
  
Mandatory Minimum Term  
of Imprisonment: 1st off - 2 dys; 2nd off - 45 dys  
Fine (\$ Range): 1st off - \$0 - 500; 2nd off - \$500 to  
1,000; §55-7-116  
Mandatory Minimum Fine: No

Administrative Licensing Actions:

Type of Licensing Action  
(Susp/Rev): Susp - if the conviction was based on  
driving while suspended; Rev - if the  
conviction was based on driving while revoked.  
  
Length of Term of License  
Withdrawal Action: An additional susp period which is equal to the  
original period; The original rev period  
extended 1 yr.

STATE - Tennessee

Other Criminal Actions Related to Alcohol  
Use and Driving: (continued)

Mandatory Term of License  
Withdrawal Action:

An additional susp period which is equal to the original period; The original rev period extended 1 yr.

Habitual Offender Laws:

State Has Such Law (Yes/No):

Yes §§55-10-601 to 55-10-617

Grounds for Being Declared an  
Habitual Offender:

3 convictions of any of the following offs w/n 3 yrs: 1) voluntary or involuntary motor veh homicide; 2) DWI; 3) failure to stop at scene of an accident; 4) violation of statute on meeting and overtaking school buses.

Term of License Rev While

Under Habitual Offender Status:

3 yrs

Type of Criminal Off if

Convicted on Charges of  
Driving While on Habitual  
Offender Status

Felony

Sanctions Following a Conviction of  
Driving While on Habitual Offender  
Status:

Imprisonment (Term):

1 to 10 yrs Section 39-1-201

Mandatory Minimum Term of

Imprisonment:

No

Fine (\$ Range):

N/A

Mandatory Minimum Fine (\$):

No

Licensing Actions (Specify):

1 yr rev (additional)

Other State Laws Related To Alcohol Use  
And Driving:

Laws Requiring BAC Chemical Tests on  
Those Persons Killed in Fatal Traffic  
Crashes:

State Has Such a Law (Yes/No):

Yes (but discretionary) See §38-7-109

BAC Chemical Test Is Given to the  
the Following Persons:

Driver:

Discretionary

Vehicle Passengers:

Discretionary

Pedestrian:

Discretionary

STATE - Tennessee

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Laws Establishing the Minimum Ages

Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 21<sup>1</sup> §57-4-203(b) (Year Eff. 1984)  
Minimum Age (Years) Possession: 21<sup>1</sup> There is an employment exemption  
Minimum Age (Years) Consumption: 21<sup>1</sup> §§1-33-113, 57-4-203(b)(1) and (2)  
and 57-5-301

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): No

"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest

Court of Record in the State  
(Case Citation):

Yes, Mitchell v. Ketner: 54 Tenn. App. 656,  
393 S.W.2d 755 (1964)

Dram Shop Actions-Social Hosts:

No (No Cases)

Other:

No

Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

Type of Criminal Action: Misd §57-4-203  
Term of Imprisonment: 30 dys to 6 mos  
Fine (\$ Range): \$500 to 1,000

Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages

Withdrawn (Yes/No): Yes

Length of Term of License Withdrawal: 1st off - time period not specified in the  
statute; 2nd off - Permanently

<sup>1</sup>Under §1-3-113(b)(12), active duty members of the U.S. Armed Forces are not subject to these age limitations.



STATE - Tennessee

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:

Type of Criminal Action: 1st off - Misd; 2nd and subsequent offs -  
Felony; §§57-4-203 and 57-5-303  
Term of Imprisonment: 1st off - 30 dys to 6 mos; 2nd and  
subsequent offs - 1 to 3 yrs  
Fine (\$ Range): 1st off - \$25 to 500; 2nd and subsequent  
offs - \$500 to 3,000

Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Yes §57-5-303  
Length of Term License Withdrawal: 1st off - 1 time period not specified in the  
statute<sup>1</sup>; 2nd and subsequent offs - Permanent;  
§57-5-109, §57-5-303

Anti-Happy Hour Laws/Regulations: No

Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:

Open Container Law (Yes/No): No  
Anti-Consumption Law (Yes/No): No

<sup>1</sup>For alcoholic beverages of less than 5%, 1st off - License susp for not to exceed ten (10)  
dys; see §57-5-109(b).

STATE: TEXAS  
General Comments: See Vernon's Texas Civil Statutes

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): 0.10% 67011-1(a)(2)(B)  
Presumption (BAC Level): N/A  
Types of Drugs/Drugs and Alcohol: (1) Any Drug, (2) a Controlled Substance or (3) a Combination of These and Alcohol  
67011-1-(a)(2)(A) & 67011-1-(b)  
Other: N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: No  
Implied Consent Law:  
Arrest Required (Yes/No): Yes 67011-5  
Implied Consent Law Applies to  
Drugs (Yes/No): Yes 67011-5, sec. 1  
Refusal to Submit to Chemical Test  
Admitted into Evidence: Yes (Criminal Cases) 67011-5, sec. 3(g)  
Other Information: N/A

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood: Yes 67011-5  
Urine: No  
Other: N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No  
Anti-Plea Bargaining Statute (Yes/No): No  
Pre-Sentencing Investigation Law (PSI)  
(Yes/No): Yes, See Section 4, Article 42.12 and  
Section 4, Article 42.13, Code of Criminal  
Procedure.

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test:  
Criminal Sanctions (Fine/Jail): N/A  
Administrative Licensing Action  
(Susp/Rev): N/A  
Other: N/A

STATE - Texas

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	Susp - 90 dys 6701-5, sec. 21f
Other:	(Hardship licenses may be issued; see 6687b, sec. 23A)

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years,  
Etc.):

1st off - 72 hrs to 2 yrs; 2nd off (w/n 10 yrs) - 15 dys to 2 yrs 67011-1; Subsequent offs (w/n 10 yrs) - Not less than 30 dys nor more than 2 yrs in county jail or not less than 60 dys nor more than 5 yrs in the State penitentiary. See Footnote No. 2 below.

Mandatory Minimum Term:

1st off - None; 2nd off (w/n 10 yrs) - 72 hrs<sup>1</sup>; Subsequent offs (w/n 10 yrs) - 10 dys<sup>1</sup> 67011-1(c), (d) & (d)

Fine:

Amount (\$ Range):

1st off - \$100 to 2,000; 2nd off (w/n 10 yrs) 6701-L2 - \$300 to 2,000; Subsequent offs (w/n 10 yrs) - \$500 to 2,000

Mandatory Min. Fine (\$):

None

Other Penalties:

Community Service:

Yes 1st and Subsequent offs  
Art. 42.12, sec. 6(b)

Restitution

(eg Victim's Fund)

None

Other:

Special Note - If there as been bodily injury of another person as a result of the defendant's actions for each of these offs the min. term of imprisonment is increased by 60 dys (30 dys are mandatory<sup>1</sup>) and min. and max. fines are increased by \$500.

<sup>1</sup>As a part of probation; see section 6b, Article 42.12 and section 6b, Article 42.13 Code of Criminal Procedure; or confinement in a treatment facility for not more than 90 dys in lieu of sentence or fine (see 5561c, sec. 12)

<sup>2</sup>Under Art. 67011-1, Secs. f and j, a person convicted of a DWI offense may be subject to special enhanced sanctions, if at the time of the offense they had in their immediate possession an open container of alcoholic beverages.

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: No  
UVC Type of Provisions: No  
Other: N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action

(Susp/Rev):

Susp (Note: A restricted licensed may be issued for either occupation reasons or for participation in an alcohol treatment/rehabilitation program; See Art. 6687b as amended by Sec. 11 of H.B. 1273 which was enacted in 1983.)

Term of License Withdrawal

(Days, Months, Years, etc.):

90 to 365 dys subsequent off; 180 dys to 2 yrs (See Special Note below.)

Mandatory Minimum Term of

Withdrawal:

Special Note: A license may not be suspended if either (1) a defendant is required to attend an alcohol education/treatment program or (2) a jury recommends no susp. Art. 6687 Sec. 24 (g)(1) Section 3a, Art. 32.13 Code of Criminal Procedure

Other:

Rehabilitation:

Alcohol Education:

Yes 42.12 §6d

Alcohol Treatment:

Yes 5561(C) §12

Alcohol Education/

A restricted license may be issued for either occupational reasons or for participation in an alcohol/drug treatment/rehabilitation program see Art. 6687b.

Treatment as an Altern-

ative to Criminal

Licensing Actions

(Describe):

N/A

Vehicle Impoundment/Confiscation:

Authorized by Specific

Statutory Authority:

Yes - A defendant's veh may be subject to forfeiture by the State following three or more DWI convictions. 67011-7

Special Note: For persons under 17: 1st off.-susp. until the person reaches 17 or for 365 dys whichever is the longer susp. period; sub. off.-a susp. until the person reaches 19 or for 365 dys whichever is the longer susp. period. An occupation license is available if the person is eligible for a provisional license under §23A of Art. 6687b.

STATE - Texas

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Terms Upon Which Vehicle Will Be Released:	Not specified
Other:	N/A
Miscellaneous Sanctions Not Included Elsewhere:	N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes, 3rd degree felony. §19.05 Penal Code  
Sanctions:

Criminal Sanction:

Imprisonment (Term):	2 to 10 yrs §12-34 Penal Code
Mandatory Minimum Term:	No
Fine (\$ Range):	\$5,000
Mandatory Minimum Fine:	No

Administrative Licensing Action:

Licensing Authorized and Type of Action:	Susp 6687(b) §§22(b)(2) and §24(a)
Length of Term of Licensing Withdrawal:	Not more than 1 yr 6687(b) §23
Mandatory Action—Minimum Length of License Withdrawal:	N/A
Other:	N/A

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term):	Not less than 72 hrs nor more than 6 mos. 6687(b), §34
Mandatory Minimum Term of Imprisonment:	No
Fine (\$ Range):	Not less than \$25 nor more than \$500
Mandatory Minimum Fine:	No

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev):	Susp 6687(b) §24(c)
Length of Term of License Withdrawal Action:	12 mos
Mandatory Term of License Withdrawal Action:	12 mos

STATE - Texas

Other State Laws Related To Alcohol Use  
And Driving:

Habitual Offender Laws:

State Has Such Law (Yes/No): Yes 6687(b), §22(b)(4)

Grounds for Being Declared an  
Habitual Offender: "Any person with 4 or more convictions arising  
out of different transactions in a cons period  
of 12 mos or 7 or more convictions arising out  
of different transactions w/in a period of 24  
mos..." 6687(b) §22(b)(4)

Term of License Rev While

Under Habitual Offender Status: Susp for not more than 1 yr 6687(b)  
§22(a)

Offender Status: An occasional license may be issued on a showing  
of "essential need"; see 6687b §23A

Sanctions Following a Conviction of  
Driving While on Habitual Offender  
Status:

Imprisonment (Term): None

Mandatory Minimum Term of

Imprisonment: N/A

Fine (\$ Range): N/A

Mandatory Minimum Fine (\$): N/A

Licensing Actions (Specify): N/A

Laws Requiring BAC Chemical Tests on  
Those Persons Killed in Fatal Traffic  
Crashes:

State Has Such a Law (Yes/No): Yes See 6701(d), §46

BAC Chemical Test Is Given to the  
the Following Persons:

Driver: Yes (indirectly at 6701(d), §46)

Vehicle Passengers: Yes

Pedestrian: Yes

Laws Establishing the Minimum Ages  
Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 21 (Year Eff: 1986) Alcoholic Beverage  
Code §106.01 et. al.

Minimum Age (Years) Possession: 21, exemptions for employment or while in  
the presence of a parent or guardian.

Minimum Age (Years) Consumption: 21, (Exemption for a minor's consumption of  
alcoholic beverages when they are in the  
"visible presence" of a parent or guardian.)

Other State Laws Related To Alcohol Use  
And Driving: (continued)

**Dram Shop Laws and Related Legal Actions:**

State Has a Dram Shop Law (Yes/No): **No**

"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation):

**No** (For a case involving potential employer  
liability for the acts committed by an  
intoxicated employee while driving home, see  
Clark v. Otis Engineering Corp., 633 S. W. 538  
(CA, 1982)

Dram Shop Actions--Social Hosts:

**No** (No Cases)

Other:

**N/A**

**Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

**Misd; §101.63** Note: All statute  
references come from Vernon's Texas Code  
Annotated Alcoholic Beverage Code

Type of Criminal Action:

Term of Imprisonment:

1st off - Not more than 1 yr 101.63(a); 2nd  
off - Not more than 1 yr 202.62(b)

Fine (\$ Range):

1st off - Not less than \$100 nor more than  
\$500; Subsequent off - Not less than \$500 nor  
more than \$1,000

**Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):

**Yes**

Length of Term of License Withdrawal:

**Suspended** or not more than 60 dys or  
cancelled, §61.71

**Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:**

Type of Criminal Action:

**Misd**

Term of Imprisonment:

Not more than 1 yr<sup>1</sup>; see §§106.01 and  
106.03

Fine (\$ Range):

Not less than \$100 nor more than \$500;  
Subsequent offense - 4500 - 1,000; see  
§106.06

<sup>1</sup>Applies to both a 1st and sub off.

STATE - Texas

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages

Withdrawn (Yes/No):

Yes §106.13(a)

Length of Term License Withdrawal:

1st off - suspended for not more than 60 dys  
or cancelled; 2nd off - suspended for not more  
than 3 mos or cancelled; 3rd off (within 36  
mos) - suspended for not more than 12 mos or  
cancelled

Anti-Happy Hour Laws/Regulations:

Yes (regulation - Rule 060.09.04.001)

Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:

Open Container Law (Yes/No):

No<sup>1</sup>

Anti-Consumption Law (Yes/No):

No

<sup>1</sup>Under Art. 67011-1, Secs. f and j, a person convicted of a DWI offense may be subject to special enhanced sanctions, if at the time of the offense they had in their immediate possession an open container of alcoholic beverages.



STATE:  
General Comments:

UTAH  
See Utah Code Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	Yes, 0.08% §41-6-44(1)
Presumption (BAC Level):	N/A
Types of Drugs/Drugs and Alcohol:	(1) Any Drug and (2) a Combination of Any Drug and Alcohol §41-6-44(1)
Other:	N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	No
Implied Consent Law:	
Arrest Required (Yes/No):	Yes §41-6-44.10(2)
Implied Consent Law Applies to Drugs (Yes/No):	Yes §41-6-44.110(1)
Refusal to Submit to Chemical Test Admitted into Evidence:	Yes (Criminal and Civil Cases) §41-6-44.10(8)
Other Information:	No

Other Chemical Tests for BAC Level which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes §41-6-44.10
Urine:	Yes §41-6-44.10
Other:	No

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No (Note: A Magistrate may not grant diversion in a DWI case; see §77-2-9)
Anti-Plea Bargaining Statute (Yes/No):	No (Note: If the defendant pleads guilty or <u>nolo contendere</u> to reckless driving as a substitute for DWI charge, the prosecution must state for the record whether alcohol or drug was related to the pleaded off.) §41-6-44(7)
Pre-Sentencing Investigation Law (PSI) (Yes/No):	No (optional in felony cases, e.g., veh homicide) §76-3-404

Sanctions for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	N/A
Administrative Licensing Action (Susp/Rev):	N/A
Other:	N/A

STATE - Utah

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail):  
Administrative Licensing Action  
(Susp/Rev):

N/A

Rev for 1 yr Mandatory; §41-6-44.10(2)  
(Note: No hardship license may be issued for  
revs based on a test refusal; see §41-2-19(d).)

Other:

N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years,  
Etc.):

1st off, non-injury related - 60 dys to 6  
mos; injury related (negligence) - not more  
than 1 yr; 2nd off (w/n 5 yrs), non injury  
related - 60 dys to 6 mos; injury related  
(negligence) - not more than 1 yr; Injury  
related (negligence) - Not more than 1 yr  
1st off, non-injury related - 48 hrs; injury  
related (negligence) - 48 cons hrs; 2nd off  
(w/n 5 yrs), non-injury related - 48 cons  
hrs; injury related (negligence) - 48 cons  
hrs; Subsequent off (w/n 5 yrs), non-injury  
related - 30 dys; injury related (neg) -  
30 dys

Mandatory Minimum Term:

Fine:

Amount (\$ Range):

1st off, non-injury related - \$299<sup>1</sup>;  
injury related (negligence) - Not more than  
\$1,000<sup>1</sup>; 2nd off (w/n 5 yrs), non-injury  
related - \$299<sup>1</sup>; injury related  
(negligence) - Not more than \$1,000<sup>1</sup>;  
Subsequent offs (w/n 5 yrs), Non-injury related  
- \$299<sup>1</sup>; Injury related (negligence) - Not  
more than 1,000<sup>1</sup>

Mandatory Min. Fine (\$):

See footnote 1 below

<sup>1</sup>Under §63-43-10(1), the Court is required to impose, in addition to the above fines, a special fine of \$150 for 1st offenders, \$299 for 2nd and subsequent offenders; this special fine is for the purpose of funding alcohol education and treatment programs under §63-43-11; in addition, under §63-43-10(2), the Court is also required to impose other assessments that fully compensate agencies for the costs of treating DWI defendants.

STATE - Utah

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Other Penalties:

Community Service:

1st off, non-injury related - 2 to 10 dys in lieu of imprisonment (2 dys mandatory); 2nd off (w/n 5 yrs), Non-injury related - 10 to 30 dys in lieu of imprisonment (10 dys are mandatory); Subsequent offs (w/n 5 yrs), Non-injury related - 30 to 90 dys in lieu of imprisonment (30 dys are mandatory)

Restitution

(eg Victim's Fund):

Yes See §41-24-1 et. seq.

Other:

N/A

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:

Yes (BAC of 0.08%) 1st admin action - Susp for 90 dys; 2nd and subsequent admin actions - Susp for 120 dys (The susp pd. begins on the 31st dy after the arrest.) Note: These license susps appear to be mandatory. §41-2-19.6

UVC Type of Provisions:

Yes §41-2-19

Other:

N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action

(Susp/Rev):

1st DWI off (for either injury or non-injury related offs)-Susp; 2nd and subsequent DWI offs (for either injury or non-injury related offs)-Rev; §41-6-44(9) (See new §41-2-19-(a)(6))

Term of License Withdrawal

(Days, Months, Years, etc.):

1st DWI off (for either injury or non-injury related offs) - 90 dys; 2nd or subsequent offs (for either injury or non-injury related offs) - 1 yr; §41-6-44-(9)

Mandatory Minimum Term of

Withdrawal:

1st DWI off (for either injury or non-injury related offs) - 90 dys; 2nd or subsequent offs (either injury or non-injury related offs) - 1 yr; §41-6-44(9) Note: No hardship license may be issued for DWI related susps/revs; see §41-2-28(d)

STATE - Utah

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Other:

Rehabilitation:

Alcohol Education: Yes, judge must order a convicted DWI defendant to attend either an education or treatment program

Alcohol Treatment: N/A

Alcohol Education/  
Treatment as an Alternative to Criminal  
Licensing Actions  
(Describe): N/A

Vehicle Impoundment/Confiscation:

Authorized by Specific  
Statutory Authority: No

Terms Upon Which Vehicle  
Will Be Released: N/A

Other: N/A

Miscellaneous Sanctions  
Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

Yes Note: There are two different types of veh homicide.

State Has Such Law/Type of Offense: 1) "Simple" Negligent Homicide: Death caused by operating a motor vehicle in a negligent manner while DWI or with a BAC level of 0.08 or more - 3rd degree felony §76-5-207(1) and 2) "Criminal" Negligent Homicide: Death caused by operating a motor vehicle in a criminally negligent manner (as defined by §76-2-103(4)) while DWI or with a BAC level of 0.08 or more - 2nd degree felony §76-5-207(2).

Sanctions:

Criminal Sanction:

Imprisonment (Term): Simple Negligent Homicide - Not more than 5 yrs; §76-3-203(3) Criminally Negligent Homicide - 1-15 yrs §76-3-203(2)

Mandatory Minimum Term: N/A

Fine (\$ Range): 1) Simple Negligent Homicide - Not more than \$5,000; 2) Criminal Negligent Homicide - Not more than \$10,000; §76-3-301(1) & (2)

Mandatory Minimum Fine: N/A

STATE - Utah

Other Criminal Actions Related to Alcohol  
Use and Driving: (continued)

Administrative Licensing Action:  
Licensing Authorized and  
Type of Action: For both offs - Rev; §41-2-18(a)(1) and (4)  
Length of Term of  
Licensing Withdrawal: For both offs - 1 yr; §41-2-21(1) and (4)  
and §41-2-21  
Mandatory Action—Minimum  
Length of License  
Withdrawal: For both offs - 1 yr (No hardship license  
may be issued; see §41-2-18(d))  
Other: N/A

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): 6 mos (maximum); 241-6-28, 241-2-30-2 and  
241-6-44  
Mandatory Minimum Term  
of Imprisonment: No  
Fine (\$ Range): \$299 to 1,000; §41-2-30  
Mandatory Minimum Fine: No

Administrative Licensing Actions:

Type of Licensing Action  
(Susp/Rev): For driving while suspended - Susp; For  
driving while revoked - Rev; §41-2-18(b)  
Length of Term of License  
Withdrawal Action: For driving while suspended - an additional like  
period of susp for driving while revoked; For  
driving while revoked 1 yr additional period rev  
; §41-2-18(b)  
Mandatory Term of License  
Withdrawal Action: For driving while suspended an additional like  
period of susp; For driving while revoked 1 yr  
additional period of rev

Habitual Offender Laws:

State Has Such Law (Yes/No): No  
Grounds for Being Declared an  
Habitual Offender: N/A  
Term of License Rev While  
Under Habitual Offender Status: N/A  
Type of Criminal Offense if  
Convicted on Charges of  
Driving While on Habitual  
Offender Status: N/A

STATE - Utah

Other State Laws Related To Alcohol Use  
And Driving:

Sanctions Following a Conviction of  
Driving While on Habitual Offender  
Status:

Imprisonment (Term):	N/A
Mandatory Minimum Term of Imprisonment:	N/A
Fine (\$ Range):	N/A
Mandatory Minimum Fine (\$):	N/A
Licensing Actions (Specify):	N/A

Laws Requiring BAC Chemical Tests on  
Those Persons Killed in Fatal Traffic  
Crashes:

State Has Such a Law (Yes/No):	Yes
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes §26-1-30(17), §41-644.10
Vehicle Passengers:	No
Pedestrian:	Yes (adults only) §26-1-30(17)

Laws Establishing the Minimum Ages  
Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase:	21 §§32a-12-8(1) & 32a-12-13.4 (Year Eff: 1935)
Minimum Age (Years) Possession:	21 §32a-12-13
Minimum Age (Years) Consumption:	21 §32a-12-13

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No):	Yes §32a-14-1
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation):	No
Dram Shop Actions-Social Hosts:	Possible statutory liability §32a-14-1
Other:	No

Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

Type of Criminal Action:	Class B Misd §§32a-12-4, 32a-12-9, 76-3-204(2), 76-3-301(4), & 76-3-302(3)
Term of Imprisonment:	Not more than 6 mos
Fine (\$ Range):	Not more than \$299 for individuals and not more than \$2,000 for corporations, associations, partnerships, or Governmental instrumentalities

STATE - Utah

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):

Yes<sup>1</sup> Suspension or Revocation;  
§32a-1-19

Length of Term of License Withdrawal: Suspension: Time period not specified in  
the statute Revocation: At least 3  
yrs; §32a-1-19(9)

Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:

Type of Criminal Action:

Class A Misd §§32a-12-8, 76-3-204(1),  
76-3-301(3), & 76-3-302(2)

Term of Imprisonment:

Not more than 1 yr

Fine (\$ Range):

Not more than \$1,000 for individuals and not  
more than \$5,000 for corporations,  
associations, partnerships, or Governmental  
instrumentalities.

Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):

Yes<sup>1</sup>: Suspension or Revocation  
§32a-1-19

Length of Term License Withdrawal:

Suspension: Time period not specified in  
the statute; Revocation: At least 3  
yrs §32a-1-19(9)

Anti-Happy Hour Laws/Regulations:

No

Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:

Open Container Law (Yes/No):

Yes §41-6-44.20(2)

Anti-Consumption Law (Yes/No):

Yes - driver and passengers §41-6-44.20(1)

<sup>1</sup>Special Note: Under §32a-1-19(10), employees in violation of this law may be prohibited,  
via a suspension action from serving alcoholic beverages for a period of up to one (1) month.  
However, any employee who has had three (3) suspensions within a 36 month period may be  
prohibited from handling liquor, in the course of employment, for one (1) year.

STATE:  
General Comments:

VERMONT  
See Vermont Statutes Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	Yes, 0.10% 23 §1201
Presumption (BAC Level):	Yes, 0.10% 23 §1204
Types or Drugs/Drugs and Alcohol:	(1) Any Drug and (2) a Combination of Any Drug and Alcohol 23 §1201(a)(3)
Other:	N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	Yes 23 §1201
Implied Consent Law:	
Arrest Required (Yes/No):	Unclear, but probably not 23 §1202(b)
Implied Consent Law Applies to Drugs (Yes/No):	No
Refusal to Submit to Chemical Test Admitted into Evidence:	Yes (Criminal Cases) 23 §1205(a)
Other Information:	N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes
Urine:	No
Other:	No

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes, the court may require a defendant to undergo an alcohol assessment screening 23 §§4(49) and 1210(a)

Sanctions for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	No
Administrative Licensing Action (Susp/Rev):	No
Other:	No



STATE -- Vermont

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail):  
Administrative Licensing Action  
(Susp/Rev):

No

1st off - Susp 6 mos (mand.); 2nd off (after 5 yrs) - 6 mos susp (mand.); 2nd off (w/n 5 yrs) - 18 mos susp (mand.); 3rd off - 3 yr rev (2 yrs mand.); 4th and subsequent offs (after 15 yrs from 1st) - Rev 6 yrs ( 2 yrs mand.); 4th and subsequent offs (w/n 15 yrs of 1st) - Rev for life (2 yrs mandatory); 23 §1205

Other:

Special Note: 1) A previous DWI conviction is also considered a previous refusal for the purpose of computing subsequent chemical test refusals. (2) If a person, who has had their license revoked for three (3) or more yrs, has abstained from the consumption of alcohol for two (2) yrs, they may have their license reinstated. (3) Before a license can be reinstated following a susp/rev for any chemical test refusal, a person must complete an alcohol and driver education program; for 2nd (w/n 5 yrs) and 3rd refusals, the driver must also complete a therapy program at their own expense before their license is reinstated.

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:  
Term (Day, Month, Years,  
Etc.):

DWI Offs: 1st off - Not more than 1 yr; 2nd off (w/n 5 yrs) - Not more than 1 yr; 3rd off (w/n 15 yrs) - Not more than 1 yr; Serious injury related DWI off - 1 to 15 yrs; 23 §1210

Mandatory Minimum Term:

2nd DWI off (w/n 5 yrs) - 48 cons hrs (Community service in lieu of imprisonment); 3rd DWI off (w/n 15 yrs) - 48 cons hrs

Fine:

Amount (\$ Range):

1st off - \$200 to 750; 2nd off (w/n 5 yrs) - \$250 to 1,000; 3rd off (w/n 15 yrs) - \$500 to 1,500; Serious injury related DWI off - Not more than \$3,000

Mandatory Min. Fine (\$):

N/A

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Other Penalties:	
Community Service:	<u>2nd off (w/n 5 yrs) - Not less than 10 dys;</u> <u>3rd DWI off (w/n 15 yrs) - Not less than 10</u> <u>yrs (Community service in lieu of imprisonment)</u>
Restitution	
(eg Victim's Fund):	N/A
Other:	N/A
Administrative Licensing Actions:	
<u>Pre-DWI Conviction Licensing Action:</u>	
Administrative Per Se Law:	No
LVC Type of Provisions:	No
Other:	No
<u>Post DWI Conviction Licensing Action:</u>	
Type of Licensing Action	
(Susp/Rev):	<u>1st off - Susp; 2nd off (after 5 yrs of 1st)</u> <u>- Susp; 2nd off (w/n 5 yrs) - Susp; 3rd</u> <u>off - Rev; 4th and subsequent offs (after 15</u> <u>yrs of 1st) - Rev; 4th and subsequent offs</u> <u>(w/n 15 yrs) - Rev; 23 §§1206 and 1208<sup>1</sup></u>
Term of License Withdrawal	
(Days, Months, Years, etc.):	<u>1st off - 90 dys; 2nd off (after 5 yrs of</u> <u>1st) - 90 dys; 2nd off (w/n 5 yrs) - 18</u> <u>mos; 3rd off - 3 yrs; 4th and subsequent</u> <u>offs (after 15 yrs of 1st) - 6 yrs; 4th and</u> <u>subsequent off (w/n 15 yrs of 1st) - Life</u>
Mandatory Minimum Term of	
Withdrawal:	<u>1st off-90 dys; 2nd off (after 5 yrs of</u> <u>1st)-90 dys; 2nd off (w/n 5 yrs)-18 mos;</u> <u>3rd off-2 yrs; 4th and sub offs (after 15</u> <u>yrs of 1st)-2 yrs; 4th and sub offs (w/n 15</u> <u>yrs)-2 yrs; See Rehabilitation</u>
Other:	
Rehabilitation:	
Alcohol Education:	Yes
	<u>Special Note No. 1:</u> For any DWI off conviction, a defendant must complete an alcohol and driver education program prior to having their license reinstated.
	<u>Special Note No. 2:</u> For 2nd (w/n 5 yrs) and 3rd DWI off convictions, a defendant must <u>also</u> complete a therapy program at their own expense.
	<u>Special Note No. 3:</u> If a person has had their license revoked for 3 or more yrs as a result of a DWI conviction, they may have their license reinstated provided they have abstained from the consumption of alcohol for 2 yrs; 23 §§1206, 1208 and 1209a.

<sup>1</sup>Note: Vermont has a point system, but such a system does not apply to DWI cases; see 23 §2502.

STATE - Vermont

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Alcohol Treatment: Yes, see Special Notes above  
Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe): No

Vehicle Impoundment/Confiscation:  
Authorized by Specific  
Statutory Authority: No  
Terms Upon Which Vehicle  
Will Be Released: N/A  
Other: N/A  
Miscellaneous Sanctions  
Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes (There are two veh homicide laws, 23 §1901(c) applies to death caused by motor veh operation in violation of law: 23 §1210(e) applies to death caused by DWI. The criminal sanctions for a conviction under either section are the same.)

Sanctions:

Criminal Sanction:  
Imprisonment (Term): 1 to 15 yrs Special Note: These penalties do not foreclose the option of tougher penalties for manslaughter (homicide) convictions. 23 §1091(c) and 23 §1210(e)

Mandatory Minimum Term: No  
Fine (\$ Range): \$3,000  
Mandatory Minimum Fine: No

Administrative Licensing Action:  
Licensing Authorized and  
Type of Action:

If death is DWI related, ie. a 23 §1210(e) conviction - Susp<sup>1</sup>; If death is not DWI related, a 23 §1091(c) conviction - Susp; 23 §§1206(b), 23 1210(e), 23 1091(c)

Length of Term of

Licensing Withdrawal:

If death is DWI related - 1 yr; If death is not DWI related - 1 yr plus any other susp period required under the point system; see 23 §§2505 and 2506

<sup>1</sup>Before a defendant's license is reinstated, they must complete an alcohol and driver education program; see 23 §§1206(b) and 1209(a)

STATE - Vermont

Other Criminal Actions Related to Alcohol Use and Driving:

Mandatory Action--Minimum Length of License Withdrawal: If death is DWI related - 1 yr; If death is not DWI related - 1 yr plus any other susp. period required under the point system; see 23 §§2505 and 2506

Other: N/A

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): 1st off - 30 dys; 2nd off - 90 dys; 3rd off - 6 mos; 4th off - 2 yrs; 23 §674

Mandatory Minimum Term of Imprisonment: None (Note: In certain cases there are mandatory minimum sanctions; see 23 §674(c))

Fine (\$ Range): 1st off - \$500; 2nd off - \$500; 3rd off - \$1,000; 4th off - \$1,000; 23 §674

Mandatory Minimum Fine: None

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev): All offs - Susp

Length of Term of License Withdrawal Action: 1st off - 30 dys (additional); 2nd off - 90 dys; 3rd and 4th offs - 6 mos or susp under the point system whichever is greater; 23 §2506 Note: If more than one license susp/rev results from the same incident, the susp/rev periods are cons.

Mandatory Term of License Withdrawal Action: N/A

Habitual Offender Laws:

State Has Such Law (Yes/No): Yes, 23 §673

Grounds for Being Declared an Habitual Offender: 8 or more convictions based on moving violations (with 6 points or more assessed) and DWI offs within 5-yr period

STATE - Vermont

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Term of License Rev While  
Under Habitual Offender Status: 2 yrs

Type of Criminal Offense if  
Convicted on Charges of  
Driving While on Habitual  
Offender Status Misd

Sanctions Following a Conviction of  
Driving While on Habitual Offender  
Status:

Imprisonment (Term): 1st off - 30 dys; 2nd off - 90 dys; 3rd off - 6 mos; 4th and subsequent offs - 2 yrs

Mandatory Minimum Term of  
Imprisonment: Note: Mandatory minimum sanctions in certain cases; 23 §674(c)

Fine (\$ Range): 1st off - \$500; 2nd off - \$500; 3rd off - \$1,000; 4th and subsequent offs - \$1,000

Mandatory Minimum Fine (\$): None

Licensing Actions (Specify): 1st off Susp - 30 dys (additional); 2nd off Susp - 90 dys; 3rd off Susp - 6 mos; 4th and subsequent offs Susp - 6 mos or susp under point system whichever is greater.

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No): Yes

BAC Chemical Test Is Given to the  
the Following Persons:

Driver: Yes 23 §1202

Vehicle Passengers: Unclear, probably yes

Pedestrian: Unclear, probably yes

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 18 (Year Eff: 1971) 7 §§173, 657 and 658

Minimum Age (Years) Possession: 18 (employment exemption) Special Note: The law does not specifically prohibit possession or consumption per se but makes illegal the possession on alcoholic beverages by minors for the purpose of consumption.

Minimum Age (Years) Consumption: 18 see special note above

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): Yes 7 §501

STATE - Vermont

Other State Laws Related To Alcohol Use  
And Driving: (continued)

"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation): No  
Dram Shop Actions--Social Hosts: Possible statutory liability 7 §501  
Other: No

Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:  
Type of Criminal Action: None. Specified dram shop section implies  
that some sales of alcohol may be unlawful  
(e.g., if to person is on a list of persons to  
whom alcohol is not to be sold). 7 §501  
Term of Imprisonment: N/A  
Fine (\$ Range): N/A

Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:  
License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): No, but license revoked if civil judgement  
against licensee is not paid within 30 dys;  
7 §501  
Length of Term of License Withdrawal: Intermediate

Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:  
Type of Criminal Action: Misd  
Term of Imprisonment: 2 yrs 7 §658  
Fine (\$ Range): \$200 - \$1,000

Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:  
License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Yes 7 §236  
Length of Term License Withdrawal: Intermediate 7 §236

Anti-Happy Hour Laws/Regulations: No

Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:  
Open Container Law (Yes/No): No  
Anti-Consumption Law (Yes/No): Yes, driver only; 23 §1134

STATE:  
General Comments:

VIRGINIA  
See Code of Virginia Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	Yes, 0.15% §18.2-266
Presumption (BAC Level):	Yes, 0.10% §18.2-269(3)
Types of Drugs/Drugs and Alcohol:	(1) Any Drug, (2) Any Narcotic or Drug and (3) any Self-Administered Intoxicant or Drug of whatsoever Nature §18.2-266
Other:	N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	Yes §18.2-267(c)
Implied Consent Law:	
Arrest Required (Yes/No):	Yes §18.2-268
Implied Consent Law Applies to Drugs (Yes/No):	No
Refusal to Submit to Chemical Test Admitted into Evidence:	Yes But only for rebuttal purposes §18.2-268(i)
Other Information:	N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes
Urine:	N/A
Other:	N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	No

Sanctions for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	None
Other:	N/A

Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	None

STATE - Virginia

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Administrative Licensing Action  
(Susp/Rev): Susp for 6 mos to 1 yr; for a second  
or subsequent refusal w/n 1 yr - susp for 1  
yr (Mandatory) §18.2-268(n)

Other: N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years,  
Etc.): 1st off -12 mos; 2nd off (w/n 5 yrs)-1  
mo-1 yr; 2nd off (5-10 yrs from 1st)-1 mo-1  
yr; 3rd and sub off (w/n 5 yrs)-2 mos-1  
yr; 3rd and subsequent offs (5-10 yrs from  
1st)-2 mos-1 yr; §18.2-270 C1 1 misd for  
all offs

Mandatory Minimum Term: 2nd off (w/n 5 yrs)-48 hrs; 3rd and sub off  
w/n 5 yrs-30 dys; 3rd and subsequent off w/n  
5-10 yrs from 1st off - 10 dys

Fine:

Amount (\$ Range): 1st off-Not more than \$1,000; 2nd off (w/n 5  
yrs)-\$200-1,000; 2nd off (5-10 yrs from  
1st)-\$200-1,000; 3rd and sub off (w/n 5 yrs)  
-\$500-1,000; 3rd and subsequent off (5-10  
yrs from 1st) - \$500-1,000

Mandatory Min. Fine (\$): None

Other Penalties:

Community Service: None

Restitution  
(eg Victim's Fund): None

Other: References §§18.2-11, 18.2-266, 18.2.2 70, and  
46.1-423.1

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: None

UVC Type of Provisions: None

Other: N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action  
(Susp/Rev): 1st off-Privilege to operate any motor veh is  
deprived (Either susp. or rev.); 2nd off (w/n 5  
yrs)-Rev; 2nd off (5-10 yrs from  
1st)-Rev; 3rd and sub off (w/n 10 yrs)  
Rev



STATE - Virginia

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Term of License Withdrawal  
(Days, Months, Years, etc.): 1st off-6 mos; 2nd off (w/n 5 yrs)-3 yrs; 2nd off (5-10 yrs from 1st)-3 yrs; 3rd and sub off (w/n 10 yrs)- 10 yrs (See special note at the end of the Sanctions section)

Mandatory Minimum Term of Withdrawal: 1st off - See footnote 1; 2nd off (w/n 5 yrs) 2 yrs<sup>2</sup>; 2nd off (5-10 yrs from 1st)-1 yr<sup>2</sup>; 3rd and sub off (w/n 10 yrs)-5 yrs (See Special Note at end of Sanctions section); (See special note under Miscellaneous Sanctions.)

Other:

Rehabilitation:  
Alcohol Education: 1st off-Yes; 2nd off (w/n 5 yrs)-Yes; 2nd off (5-10 yrs from 1st)-Yes; 3rd and sub off - See special note at Miscellaneous Sanctions; §18.2-271.1  
Alcohol Treatment: 1st off-Yes; 2nd off (w/n 5 yrs)-Yes; 2nd off 5-10 yrs from 1st-Yes; 3rd and sub off-See Special Note at Miscellaneous Sanctions

Alcohol Education/  
Treatment as an Alternative to Criminal Licensing Actions (Describe): If court authorizes an offender to participate in either an education or treatment program, a restricted permit may be issued.

Vehicle Impoundment/Confiscation:  
Authorized by Specific Statutory Authority: No  
Terms Upon Which Vehicle Will Be Released: N/A  
Other: Under §46.1-418 a defendant's veh registration certificate and registration plates shall also be suspended when the defendant's license is either suspended or revoked

Miscellaneous Sanctions  
Not Included Elsewhere: Special Note: If a person is at the time of the DWI conviction dependent on alcohol, their license may be restored after 5 yrs provided they have been cured of such dependency, and are not otherwise a threat to the public safety.

<sup>1</sup>A restricted lic. may be reissued if defendant participates in a rehabilitation program.

<sup>2</sup>A restricted lic. may be issued after the minimum period of lic. withdrawal has passed and a defendant has completed a rehabilitation program.

STATE - Virginia

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of off: No

Sanctions:

Criminal Sanction:

Imprisonment (Term): N/A

Mandatory Minimum Term: N/A

Fine (\$ Range): N/A

Mandatory Minimum Fine: N/A

Administrative Licensing Action:

Licensing Authorized and

Type of Action:

Special Note: Even though this State does not have a veh homicide statute, it, nevertheless, provides for a mandatory 1 yr rev for a conviction of manslaughter resulting from the operation of a motor veh.

Length of Term of

Licensing Withdrawal: N/A

Mandatory Action--Minimum

Length of License

Withdrawal: N/A

Other: N/A

Driving While License Suspended or Revoked

Where the Basis Was a DWI Off:

Sanction:

Criminal:

Imprisonment (Term): 1st off - 10 dys-6 mos; 2nd and subsequent offs-2 mos-1 yr

Mandatory Minimum Term of Imprisonment:

A portion but not all of the jail sentence may be suspended, however, the term of mandatory imprisonment is not not specified in the statute (Code of Va. Ann. §§46.1-350, -351.1)

Fine (\$ Range): 1st off-\$100-200; 2nd and subsequent offs-\$200-1,000

Mandatory Minimum Fine: N/A

Administrative Licensing Actions:

Type of Licensing Action

(Susp/Rev):

1st off-Rev or Susp

Length of Term of License

Withdrawal Action:

The same period for which the license has been previously suspended or revoked; if the original period not specified, then the Susp or Rev is not to exceed 90 dys.

STATE - Virginia

Other Criminal Actions Related to Alcohol Use and Driving:(continued)

Mandatory Term of License  
Withdrawal Action:

The same period for which the license has been previously suspended or revoked; if the original period not specified, then the Susp or Rev is not to exceed 90 dys.

Habitual Offender Laws:

State Has Such Law (Yes/No):

Yes §§18.2-8, 46.1-387.9:2, 46.1-387.1 to .12, 46.1-514.6 et seq.

Grounds for Being Declared an  
Habitual Offender:

3 serious offs within 1 yr or 12 serious and/or minor violations with 10 yrs

Term of License Rev While  
Under Habitual Offender Status:  
Type of Criminal Off if  
Convicted on Charges of  
Driving While on Habitual  
Offender Status

10 yrs

Felony

Sanctions Following a Conviction of  
Driving While on Habitual Offender  
Status:

Imprisonment (Term):  
Mandatory Minimum Term of  
Imprisonment:

1-5 yrs

Note: The statute states that a portion of the sentence may be suspended, thus there would appear to be an unspecified mandatory term since the law states that just a portion of such term may be suspended

Fine (\$ Range):  
Mandatory Minimum Fine (\$):  
Licensing Actions (Specify):

None

None

None specified

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on  
Those Persons Killed in Fatal Traffic  
Crashes:

State Has Such a Law (Yes/No):

No

BAC Chemical Test Is Given to the  
the Following Persons:

Driver:  
Vehicle Passengers:  
Pedestrian:

N/A

N/A

N/A

STATE - Virginia

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Laws Establishing the Minimum Ages  
Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 21 for all alcoholic beverages (Year Eff: 1987) §§4-5, 4-62 & 4-112

Minimum Age (Years) Possession: 21 for all alcoholic beverages.<sup>1</sup> Special exemptions for physicians who administer alcoholic beverages to minors, for employment reasons, and at the order of a parent. §§4-5, 4-62 & 4-112

Minimum Age (Years) Consumption: N/A Special Exemptions for physicians who administer alcoholic beverages to minors, for employment reasons, and at the order of a parent.)

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): No

"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation): No<sup>2</sup>

Dram Shop Actions--Social Hosts: No (No Cases)

Other: N/A

Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

Type of Criminal Action: Misd §§4-37, 4-62, and 4-92 and 4-98.10

Term of Imprisonment: 30 dys--12 mos

Fine (\$ Range): \$50-500

Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Yes, Rev or susp (See note in section on sanctions for serving minors intoxicating liquor.)

Length of Term of License Withdrawal: Time period is not specified in the statute

<sup>1</sup>Persons who have attained the age of 19 by July 1, 1985 shall be allowed to consume and possess beer.

<sup>2</sup>A recent Federal District Court has held that Virginia courts would find in favor of such actions, for further details see Corrigan v. United States, 595 F.Supp. 1047 (1984).

STATE - Virginia

Other State Laws Related To Alcohol Use  
And Driving: (continued)

**Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:**

Type of Criminal Action:

Misd §§4-37(C1), 4-37(C2), 4-37(j), 4-62,  
4-92 and 4-98.10

Term of Imprisonment:

30 dys-12 mos

Fine (\$ Range):

\$50-500

**Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):

Rev or susp (Note: In addition or in lieu  
of revoking or suspending a license, a civil  
fine may be imposed as follows: 1st--Not more  
than \$1,000 2nd--Not more than \$2,500 3rd--Not  
more than \$5,000)

Length of Term License Withdrawal:

Time period not specified in the statute

Anti-Happy Hour Laws/Regulations:

Yes (regulation)

**Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:**

Open Container Law (Yes/No):

No

Anti-Consumption Law (Yes/No):

Possible<sup>1</sup> driver and passengers §4-78

<sup>1</sup>The law states that "If a person shall take a drink of alcoholic beverages or shall tender a drink thereof to another whether accepted or not, at or in any public place, he shall be guilty of a C1 4 misd." The law provides exemptions to this prohibition for licensed establishments, commercial carriers and the consumption of beer at certain sporting events.

STATE:  
General Comments:

WASHINGTON  
See Revised Code of Washington Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	Yes, 0.10% §§46.61.502(1) & 46.61.504(1)
Presumption (BAC Level):	No
Types of Drugs/Drugs and Alcohol:	(1) Any Drug and (2) a Combination of Intoxicating Liquor and Any Drug §46.61.502(2) & (3)
Other:	N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	No
Implied Consent Law:	
Arrest Required (Yes/No):	Yes §46-20-308
Implied Consent Law Applies to Drugs (Yes/No):	No
Refusal to Submit to Chemical Test Admitted into Evidence:	Yes (Criminal Cases) 46.61.517
Other Information:	Special Note: A person may be administered either a breath or blood test without their consent, if they have been arrested for either (1) vehicle homicide, (2) vehicle assault or (3) DWI where there has been an injury related accident which may result in death; see §46.20.308

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes
Urine:	No
Other:	No

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No <sup>1</sup> (Note: Court appearance mandatory.)
Anti-Plea Bargaining Statute (Yes/No):	No <sup>1</sup>
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes Permissive authorization, but not mandatory; see §46.61.515

<sup>1</sup>The State has a deferred prosecution program for DWI offenses. A person is eligible for this program only once in every five (5) years. The program provides for alcohol treatment for a two year period. Upon successful completion of the program. The court shall dismiss the charges pending against the defendant. See §§3 et. seq. of S.B. 3230 as enacted in 1985.

STATE - Washington

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test:

Criminal Sanctions (Fine/Jail): N/A  
Administrative Licensing Action  
(Susp/Rev): N/A  
Other: N/A

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail): None  
Administrative Licensing Action  
(Susp/Rev): 1st refusal-Rev for 1 yr (Mandatory); 2nd refusal (w/n 5 yrs) Rev for 2 yrs (Mandatory) §§46.20.308 and §46.20.311(2)  
Other: A blood or breath test may be taken without consent for the following offs.: Veh. homicide, veh. assault and DWI were there are injuries likely to cause death; see 46.20.308(3).

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years,  
Etc.):

1st off - 24 hrs - 1 yr; 2nd and Subsequent off (w/n 5 yrs) - 7 dys - 1 yr; 2nd and Subsequent off but offender has no license or because their license was either suspended or revoked - 90 dys - 1 yr; Veh assault (Drunk driving related injury C1 C felony) - Not more than 5 yrs; §§46.61.502, -504, .515, .522

Mandatory Minimum Term:

1st off - 24 cons hrs<sup>1</sup>; 2nd and Subsequent offs (w/n 5 yrs) - 7 dys<sup>1&3</sup>; 2nd and Subsequent off but offender has no license or because their license was either suspended or revoked - 90 dys

Fine:

Amount (\$ Range):

1st off - \$250-\$1,000<sup>2</sup>; 2nd and Subsequent off (w/n 5 yrs) - \$500-\$2,000<sup>2</sup>; 2nd and Subsequent DWI off but offender has no license or because their license was either suspended or revoked - Not more than \$1,500<sup>2</sup>; Veh assault (Drunk Driving related injury C1 C felony) - Not more than \$10,000

<sup>1</sup>May be suspended only if jail would impose a risk to defendant's physical or mental well-being.

<sup>2</sup>An additional amount equal to 25% of any fine is paid into a special fund for a statewide alcohol safety program.

<sup>3</sup>with 48 con. hrs; see §46.61.5151.

STATE - Washington

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Mandatory Min. Fine (\$): 1st off - \$250<sup>1</sup>; 2nd and Subsequent offs (w/n 5 yrs) - \$500<sup>1</sup>; 2nd and Subsequent DWI offender but offender has no license because their license was either suspended or revoked - \$200; §§ 46.61.502 - 504, and - .515

Other Penalties:

Community Service: None  
Restitution (eg Victim's Fund) Yes, as an alternative to a fine §§9A.04.04(2) and 9A.20.03 See also §7.68-03  
Other: N/A

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: No (Note: The Admin. Per Se law, due to become eff 1/1/86, was repealed by H.B. 593 as enacted in 1985.)

UVC Type of Provisions: N/A

Other: N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action

(Susp/Rev): 1st off - Susp<sup>2</sup>; 2nd off (w/n 5 yrs) - Rev; 3rd and subsequent off (w/n 5 yrs) - Rev; Veh Assault - Rev; §§46.04.285, 46.04.480 and 46.61.515(5)

Term of License Withdrawal

(Days, Months, Years, etc.): 1st off - Not less than 90 dys<sup>2</sup>; 2nd off (w/n 5 yrs) - 1 yr; 3rd and subsequent off (w/n 5 yrs) - 2 yrs; Veh assault - 1 yr; §§46.20.285, 46.04.480 and 46.61.515(5)

Mandatory Minimum Term of

Withdrawal: 1st off - 30 dys<sup>3</sup>; 2nd off (w/n 5 yrs) - 1 yr; 3rd and subsequent off (w/n 5 yrs) - 2 yrs; Veh Assault - 1 yr

<sup>1</sup>Unless the defendant is indigent.

<sup>2</sup>If the defendant is under 19 yrs old, the susp is for 90 dys or until they reach 19 whichever is the longer susp period.

<sup>3</sup>A restricted license may be issued under certain conditions after the 30-dy mandatory period; see §46.20.391



STATE - Washington

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Other:

Rehabilitation:	
Alcohol Education:	Yes for all offs <sup>1</sup>
Alcohol Treatment:	Yes for all offs <sup>1</sup>
Alcohol Education/ Treatment as an Altern- ative to Criminal Licensing Actions (Describe):	No
Veh Impoundment/Confiscation: Authorized by Specific Statutory Authority:	No
Terms Upon Which Vehicle Will Be Released:	N/A
Other:	N/A
Miscellaneous Sanctions Not Included Elsewhere:	N/A

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense:	Yes-C1 B Felony (Where death is caused by the operation of a vehicle while under the influence of intoxicating liquor or in a reckless manner.)
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Sanctions:

Criminal Sanction:	
Imprisonment (Term):	Not more than 10 yrs; §§46.20.285 and 46.61.520
Mandatory Minimum Term:	N/A
Fine (\$ Range):	Not more than \$20,000 (Under §9A.20.30 restitution may be authorized in lieu of a fine)
Mandatory Minimum Fine:	N/A
Administrative Licensing Action:	
Licensing Authorized and Type of Action:	Rev
Length of Term of Licensing Withdrawal:	2 yrs
Mandatory Action--Minimum Length of License Withdrawal:	2 yrs §46.20.391
Other:	N/A

<sup>1</sup>Note: Alcohol education/treatment are required and are in addition to any other criminal/civil sanctions; see §46.61.515.

STATE - Washington

Other Criminal Actions Related to Alcohol  
Use and Driving:

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): 1st off - 10 dys to 6 mos; 2nd off - 90 dys to 1 yr; 3rd off - 1 yr (Note: See last off listed under DWI sanctions section §§46.20.342 and 46.61.515(2))

Mandatory Minimum Term of Imprisonment: None

Fine (\$ Range): For all offs - Not more than \$500

Mandatory Minimum Fine: None

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev): Susp or Rev

Length of Term of License Withdrawal Action: If off is driving while suspended, an additional susp for a period equal to the original susp period; if the off is driving while revoked, an additional rev period of 1 yr.

Mandatory Term of License Withdrawal Action: If off is driving while suspended, an additional susp for a period equal to the original susp period; if the off is driving while revoked, an additional rev period of 1 yr<sup>1</sup>.

Habitual Offender Laws:

State Has Such Law (Yes/No): Yes §46.65.020

Grounds for Being Declared an Habitual Offender: 3 serious offs w/n 5 yrs or a combination of 20 minor and/or serious offs w/n 5 yrs provided that 3 minor offs must have been committed w/n the pd. of 360 dys for this alternative to apply.

Term of License Rev While Under Habitual Offender Status: 5 yrs (Special stay of rev if based on DWI offs and person is attending an alcohol treatment program; or after 2 yrs a restricted or unrestricted license may be issued.)

<sup>1</sup>A restricted license may be issued under certain conditions.

STATE - Washington

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	Gross misd
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	Not more than 1 yr; if convicted for DWI and for this off. the penalty is 30 dys to 1 yr and the 30 dy sentence shall not be suspended or deferred.
Mandatory Minimum Term of Imprisonment:	N/A
Fine (\$ Range):	N/A
Mandatory Minimum Fine (\$):	N/A
Licensing Actions (Specify):	There is no special licensing action for this off.

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	Yes §§46.20.308(1) and 46.52.065
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes
Vehicle Passengers:	No
Pedestrian:	Yes
Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	21 (Year Eff: 1934) §§66.44.270 and 66.44.290
Minimum Age (Years) Possession:	21 (Exemptions for minors who have been served alcoholic beverages by their parents or guardians and for religious services.)
Minimum Age (Years) Consumption:	21 (Exemptions for minors who have been served alcoholic beverages by their parents or guardians and for religious services.)

STATE - Washington

Other State Laws Related To Alcohol Use  
And Driving:

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): No<sup>1</sup>

"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation):

Yes, Halvorson v. Birchfield Boiler, Inc.,  
458 P.2d 897 (Wa. 1969), Callan v. O'Neil, 578  
P.2d 890 (Wa. 1978) and Young v. Caravan, 663  
P.2d 834 (Wa. 1983)<sup>2</sup>

Dram Shop Actions--Social Hosts:

Yes Halligan v. Pupo, 678 P.2d 1295  
(CA 1985)<sup>3</sup>

Other:

N/A

Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

Type of Criminal Action:

§§66.44.180 & 66.44.200

Term of Imprisonment:

1st off - Not more than 2 mos; 2nd off - Not  
more than 6 mos; 3rd and subsequent offs -  
Not more than 1 yr;

Fine (\$ Range):

For individuals, 1st off - Not more than  
\$500; For corporations, 1st off - Not more  
than \$5,000; 2nd and subsequent offs - Not  
more than \$10,000 (And/or forfeiture of its  
corporate license.)

Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):

Susp or Rev

Length of Term of License Withdrawal: Not specified in the statute

Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:

Type of Criminal Action:

None

Term of Imprisonment:

Same penalties apply as to serving alcoholic  
beverages to intoxicated persons §§66.44.180,  
66.44.270 & 66.44.320

Fine (\$ Range):

Same penalties apply as to serving alcoholic  
beverages to intoxicated persons

<sup>1</sup>Note: This State's Dram Shop Law was repealed in 1955; see Ch. 372 of the laws of 1955.

<sup>2</sup>Applies only to the actions of (1) intoxicated minors and/or (2) adults who have lost their will to stop drinking.

<sup>3</sup>The Court of Appeals stated that the "relevant inquiry is whether social host had authority to deny further service of alcohol when intoxication became apparent."

STATE - Washington

Other State Laws Related To Alcohol Use  
And Driving:

Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages

Withdrawn (Yes/No):

Length of Term License Withdrawal:

Susp and Rev

Not specified in the statute §§66.24.010,  
66.44.180, 66.44.320 and 66.44.325

Anti-Happy Hour Laws/Regulations:

No

Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:

Open Container Law (Yes/No):

Anti-Consumption Law (Yes/No):

Yes §§66.44.100 and 46.61(2)<sup>1</sup>

Yes - Driver and Passengers<sup>2</sup> §§66.44.100  
and 46.61(1)<sup>1</sup>

Note: Under sec. 66.44.100, "no person shall  
open the package containing liquor or consume  
liquor in a public place;" the law allows for  
exceptions (e.g. licensed establishments)

<sup>1</sup>See sec. 28 of H.B. 289 enacted in 1983; A violation of the open container provisions is a traffic infraction.

<sup>2</sup>Passengers in commercially chartered vehicles are excepted.

STATE

WEST VIRGINIA

General Comments:

See West Virginia Code

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	No <sup>1</sup>
Presumption (BAC Level):	0.10% §17C-5-8
Types of Drugs/Drugs and Alcohol:	(1) Any Drug, (2) Controlled Substance, (3) a Combination of Alcohol and Any Other Controlled Substance or Any Other Drug, (4) Habitual Users of Narcotic Drugs, Amphetamine or Any Derivative Thereof §17C-5-2(e)
Other:	0.10% is <u>prima facie</u> evidence of driving under the influence of alcohol §17C-5-8(c)

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	Yes §17C-5-5
Implied Consent Law:	
Arrest Required (Yes/No):	Yes §17C-5-4
Implied Consent Law Applies to Drugs (Yes/No):	No
Refusal to Submit to Chemical Test Admitted into Evidence:	No State v. Adams, 247 S.E.2d 475 (1978)
Other Information:	N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes 17C-5-4
Urine:	Yes 17C-5-4
Other:	N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	N/A

Sanctions for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	None
Other:	N/A

<sup>1</sup>Note: See Administrative Per Se Law below.

STATE - West Virginia

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail):  
Administrative Licensing Action  
(Susp/Rev):

None

1st refusal-Rev for 1 yr (Mandatory);  
2nd refusal-Rev for 10 yrs (5 yrs  
mandatory); 3rd refusal-Rev for life (10 yrs  
mandatory) §§17C-5-4 17C-5-7

Other:

N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years,  
Etc.):

DWI not related to death or bodily injury, 1st  
off - 1 dy<sup>2</sup> to 6 mos; 2nd off-6 mos to 1  
yr; 3rd and subsequent offs-1 to 3 yrs;

DWI resulting in death where there is reckless  
disregard of the safety of others<sup>1</sup>-1 to 3  
yrs; DWI resulting in death where there is an  
illegal act or a failure to perform a legal  
duty, 1st off-90 dys to 1 yr; 2nd off-6  
mos to 1 yr; 3rd and Sub offs-1 to 3 yrs;

DWI resulting from bodily injury where there is  
an illegal act or a failure to perform a legal  
duty, 1st off - 1 dy<sup>2</sup> to 1 yr; 2nd off -  
6 mos to 1 yr; 3rd and subsequent offs - 1  
to 3 yrs; §17C-5-2

Mandatory Minimum Term:

N/A, see footnote 1 on P. 3-356

Fine:

Amount (\$ Range):

DWI not related to death or bodily injury, 1st  
off - \$100 to 500; 2nd off-\$1,000 to  
3,000; 3rd and subsequent offs-\$3,000 to  
5,000; DWI resulting in death where there is  
reckless disregard of the safety of others<sup>1</sup>-  
\$1,000 - 3,000; DWI resulting in death where  
there is an illegal act or a failure to perform  
a legal duty, 1st off- \$500-1,000; 2nd off-  
\$1,000-3,000; 3rd and Sub offs- \$3,000 to  
5,000; DWI resulting from bodily injury where  
there is an illegal act or a failure to perform  
a legal duty, 1st off - \$200 to 1,000; 2nd  
off - \$1,000 to 3,000; 3rd and subsequent  
offs - \$3,000 to 5,000; §17C-5-2

<sup>1</sup>Felony

<sup>2</sup>Actual confinement of not less than 24 hrs.

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Sanctions Following a Conviction for a DWI Offense:  
(continued)

Mandatory Min. Fine (\$):	§17C-5-21(m) provides the above sentences are mandatory and are not subject to either susp or rev. <sup>1</sup>
Other Penalties:	
Community Service:	N/A
Restitution (eg Victim's Fund):	N/A
Other:	N/A

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:

Basis of action (for in-state residents): A BAC of 0.10% or driving while under the influence of alcohol) Admin actions where there is neither death nor a bodily injury: 1st action - 6 mos rev (90 dys are mandatory); 2nd action - 10 yrs rev (5 yrs are mandatory); 3rd action - Rev for life (10 yrs mandatory) §§17C-5A-2 and 17C-5A-3(a), (b) and (c); Admin. actions where there is a death and the driver has also acted in reckless disregard for the safety of others 1st action-10 yrs rev (5 yrs mandatory), 2nd action-Rev for life (10 yrs mandatory). Admin actions where there is a death of a person but no recklessness on the part of the driver: 1st action - 5 yrs rev (2 1/2 yrs mandatory); 2nd action - Rev for life (10 yrs mandatory). Admin actions where there is bodily injury: 1st action - 2 yrs rev (1 yr mandatory); 2nd action - 10 yrs rev (5 yrs mandatory).

UVC Type of Provisions:	N/A
Other:	N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action  
(Susp/Rev):

Note: License susp/rev provisions under previous law for in-state residents following a DWI conviction have been replaced by the provisions of the Administrative Per Se Law. DWI conviction for out-of-state residents - rev.

<sup>1</sup>Note: Sec. 17C-5-2(m) provides that the DWI sanctions are mandatory and are not subject to either susp or probation; i.e., the minimum imprisonment sanction, it appears, must be served. However, this section does provide that for jail sentences of one (1) yr or less, the provisions of sec. §§62-11A-1 et. seq. may be applied by the Court. In brief, sec. 62-11A-1 provides for a defendant's temporary release from confinement for employment, educational, medical, or family needs/reasons.



STATE - West Virginia

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Term of License Withdrawal  
(Days, Months, Years, etc.): DWI conviction for out-of-state residents - rev  
for 90 dys

Mandatory Minimum Term of  
Withdrawal: 90 dys for out-of-state residents

Other:

Rehabilitation:

Alcohol Education: Yes §17C-5A-3 Note: After (1) the period  
of mandatory rev has elapsed and (2) the driver  
has successfully completed an approved program  
of either alcohol/drug education or alcohol/drug  
treatment: a defendant's license may be  
reissued with or without conditions.

Alcohol Treatment:  
Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe): Yes see note above  
Generally no, but there are some  
alternatives. See 17C-5A-3

Vehicle Impoundment/Confiscation:

Authorized by Specific  
Statutory Authority: No

Terms Upon Which Vehicle  
Will Be Released: N/A

Other: N/A

Miscellaneous Sanctions  
Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol  
Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes, for details on DWI-death, see DWI  
sanctions above

Sanctions:

Criminal Sanction:

Imprisonment (Term): See DWI sanctions  
Mandatory Minimum Term: See DWI sanctions  
Fine (\$ Range): See DWI sanctions  
Mandatory Minimum Fine: See DWI sanctions

Administrative Licensing Action:

Licensing Authorized and  
Type of Action: See DWI sanctions  
Length of Term of  
Licensing Withdrawal: See DWI sanctions

STATE - West Virginia

Other Criminal Actions Related to Alcohol Use and Driving:

Mandatory Action—Minimum Length of License  
Withdrawal: See DWI sanctions  
Other: N/A

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): 1st off Misd - 48 hrs-6 mos; 2nd off Misd - 6 mos-1 yr; 3rd and subsequent offs Felony - 1-3 yrs (penitentiary) §17B-4-3(b)

Mandatory Minimum Term of Imprisonment: 1st off - 48 hrs; 2nd off - 6 mos; 3rd and subsequent offs - 1 yr

Fine (\$ Range): 1st off - \$100-500; 2nd off - \$1,000-3,000; 3rd and subsequent offs - \$3,000-5,000

Mandatory Minimum Fine: 1st off - \$100; 2nd off - \$1,000; 3rd and subsequent offs - \$1,000

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev): Either Susp or Rev

Length of Term of License Withdrawal Action: If license was originally suspended the license withdrawal period would be equivalent to the original period of susp. If license was revoked, 1 yr extension of the original rev. 17B-4-3(c)

Mandatory Term of License Withdrawal Action: Same as above

Habitual Offender Laws:

State Has Such Law (Yes/No): No

Grounds for Being Declared an Habitual Offender: N/A

Term of License Rev While Under Habitual Offender Status: N/A

Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: N/A

STATE - West Virginia

Other State Laws Related To Alcohol Use  
And Driving:

Sanctions Following a Conviction of  
Driving While on Habitual Offender  
Status:

Imprisonment (Term):	N/A
Mandatory Minimum Term of Imprisonment:	N/A
Fine (\$ Range):	N/A
Mandatory Minimum Fine (\$):	N/A
Licensing Actions (Specify):	N/A

Laws Requiring BAC Chemical Tests on  
Those Persons Killed in Fatal Traffic  
Crashes:

State Has Such a Law (Yes/No):	Yes 17C-5B-1
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes
Vehicle Passengers:	No
Pedestrian:	Yes (Adult Pedestrians)

Laws Establishing the Minimum Ages  
Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase:	19 for State residents 21 for out-of-state residents §§11-16-13 & 60-3-22 (yr eff: 1983)
Minimum Age (Years) Possession:	N/A Special Note: Under §§11-16-13(c) & 60-3-22(b), no alcoholic beverages may be sold to any person under the age of 21 unless they display a driver's license/non-operator's identification card issued under §17B-2-8. These provisions, in effect, prohibit a non- resident under the age of 21 from being sold alcoholic beverages since such a person would not normally have such a license/card.
Minimum Age (Years) Consumption:	N/A

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No):	No
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation):	No
Dram Shop Actions-Social Hosts:	No (No Cases)
Other:	N/A

STATE - West Virginia

Other State Laws Related To Alcohol Use  
And Driving: (continued)

**Criminal Action Against Owners or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

**Type of Criminal Action:**

Misd.-For Alc. Bev. above 4.2% (except as noted below), see generally §§60-1-5, 60-3-(a)(2) & (3), and 60-6-15); for Nonintoxicating Beer (not more than 4.2%) and Pkg. Wines, see generally §§11-16-13(b) & (s), 60-8-20, 60-8-21 and 60-8-25

**Term of Imprisonment:**

For Alc. Bev. above 4.2% (except as noted below)-5 dys-6 mos; For Nonintoxicating Beer<sup>1</sup> (not more than 4.2%) and Pkg. Wines-30 dys-6mos

**Fine (\$ Range):**

For Alc. Bev. above 4.2% (except as noted below)-Not more than \$500; for Nonintoxicating Beer<sup>1</sup> (not more than 4.2%) and Pkg. Wines-\$25-500

**Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

**License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):**

Yes, Suspended or revoked For Alc. Bev. above 4.2% (except as noted below), see generally §§60-3-1 et seq. and 60-7-13(a); for Nonintoxicating Beer (not more than 4.2%), see generally §§11-16-15(a) & 11-16-16; For Pkg. Wines, see generally §§60-8-18 & 60-8-21

**Length of Term of License Withdrawal:**

For Alc. Bev. above 4.2% (except as noted below)-Rev. 1 yr (private clubs<sup>2</sup>); For Nonintoxicating Beer<sup>1</sup> (not more than 4.2% alcohol)-Susp. or Rev.-2 yrs; for Pkg. Wines-Susp. or Rev.-Not specified in the statute

<sup>1</sup>Under the licensing provisions of 11-16-1 et seq., nonintoxicating beer may be sold privately at retail by the package and by the drink.

<sup>2</sup>Private clubs sell alcoholic beverages (above 4.2% alcohol) by the drink; only the State sells packaged alcoholic beverages.

STATE - West Virginia

Other State Law Related to Alcohol Use  
and Driving: (continued)

**Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:**

Type of Criminal Action:

Misd For Alc. Bev. above 4.2% (except as noted below), see generally §§60-1-5, 60-3-22(a)(1) & 60-6-15; for Nonintoxicating Beer (not more than 4.2%) and Pkg. Wines, see generally §§11-16-13(b) & (s), 60-8-20(c), 60-8-21 and 60-8-25

Term of Imprisonment:

For Alc. Bev. above 4.2% (except as noted below)-5 dys-6 mos; for Nonintoxicating Beer<sup>1</sup> (not more than 4.2%) and Pkg. Wines-30 dys-6 mos

Fine (\$ Range):

For Alc. Bev. above 4.2% (except as noted below)-Not more than \$500; for Nonintoxicating Beer<sup>1</sup> (not more than 4.2%) and Pkg. Wines-\$25-500

**Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:**

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):

Yes, Susp or Rev For Alc. Bev. above 4.2% (except as noted below), see generally §§60-3-1 et seq. & 60-7-13(a); for Nonintoxicating Beer<sup>2</sup> (not more than 4/2%), see generally §§11-16-15(a) & 11-16-16; for Pkg. Wines, see generally

§60-8-18 & 60-8-21

Length of Term License Withdrawal:

For Alc. Bev. above 4.2% (except as noted below)-Rev. 1 yr (private clubs<sup>2</sup>); for Nonintoxicating Beer<sup>1</sup> (not more than 4.2%)-Susp. or Rev.-2 yrs; for Pkg. Wines-Susp. or Rev.-Not specified in the statute

<sup>1</sup>Under the licensing provisions of 11-16-1 et seq., nonintoxicating beer may be sold privately at retail by the package and by the drink.

<sup>2</sup>Private clubs sell alcoholic beverages (above 4.2% alcohol) by the drink; only the State sells packaged alcoholic beverages.

STATE - West Virginia

Other State Law Related to Alcohol Use  
and Driving: (continued)

Anti-Happy Hour Laws/Regulations: No

Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:

Open Container Law (Yes/No): No

Anti-Consumption Law (Yes/No): Yes - Driver and passengers §60-6-9(a)(3)

STATE:

WISCONSIN

General Comments:

See: Wisconsin Statutes Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):  
Presumption (BAC Level):  
Types of Drugs/Drugs and Alcohol:

Yes, 0.10% §346.63(1)(b)  
No  
(1) Any Drug, (2) an Intoxicant, (3) a  
Controlled Substance, (4) a Combination of  
an Intoxicant and a Controlled Substance and  
(5) a Combination of an Intoxicant and Any  
Other Drug §346.63

Other:

A person who has not attained the legal drinking  
age, may not operate a motor veh with a BAC  
level of 0.0% up to 0.10%; see §346.63(2m); the  
only penalty for a violation of §346.63(2m) is a  
license susp for 3 mos (however, an occupational  
hardship license is available)

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:  
Implied Consent Law:  
Arrest Required (Yes/No):  
Implied Consent Law Applies to  
Drugs (Yes/No):  
Refusal to Submit to Chemical Test  
Admitted into Evidence:  
Other Information:

Yes §343.303  
Yes  
Yes §343.305(1)  
Yes (Criminal Cases)  
State v. Albright, 298 N.W.2d 196 (CA, 1980)  
N/A

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood:  
Urine:  
Other:

Yes  
Yes  
No

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):  
Anti-Plea Bargaining Statute (Yes/No):  
Pre-Sentencing Investigation Law (PSI)  
(Yes/No):

No  
No (Note: However, the Court must approve  
dismissals of or amendments to DWI charges; see  
§967.055)  
Yes §343.305(9)(c)

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Sanctions for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:

Criminal Sanctions (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	None
Other:	N/A

Refusal to Take Implied Consent Chemical Test

Criminal Sanction (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	

1st refusal - 6 mo rev, after 15 dys of the rev period, the driver is eligible for an occupational license; 2nd refusal and/or DWI off conviction w/n 5 yrs - 1 yr rev, after 60 dys of the rev period, the driver is eligible for occupational license; 3rd and subsequent refusal and/or DWI off conviction w/n 5 yrs - 2 yr rev, after 90 dys of rev period, the driver is eligible for an occupational license; §343.305(9)<sup>1</sup>

Other: N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:  
Term (Day, Month, Years, Etc.):

Non-injury related DWI offs 2nd off or (w/n 5 yrs)-5 dys to 6 mos; 3rd and Sub off (w/n 5 yrs) - 30 dys to 1 yr; Injury related DWI offs, Without great bodily harm - 30 dys to 1 yr; With great bodily harm (Cl E felony) - Not more than 2 yrs; §§346.63(1), 346.65(2), and 346.65(3) and 939.50 and 940.25

Mandatory Minimum Term:

N/A

Fine:

Amount (\$ Range):

Non-injury related DWI offs, 1st off- \$150 to 300; 2nd DWI off (w/n 5 yrs) - \$300 to 1,000; 3rd & Sub. off (w/n 5 yrs)-\$600 to 2,000; Injury related DWI offs, Without great bodily harm - \$300 to 2,000; With great bodily harm (Cl E felony) - Not more than \$10,000

Mandatory Min. Fine (\$):

None

<sup>1</sup>If a person, under the legal drinking age has been arrested for a violation of §346.63(2m), driving with a BAC level of more than 0.00 but less than 0.10, refuses to submit to a chemical test, their license is revoked for six (6) months. After the first 15 days of this revocation period have passed, an occupational license can be issued. A refusal based only on this offense is not considered a prior refusal for enhanced sanctioning purposes for either DWI convictions or other chemical test refusals. See §§343.305(9)(am) & 346.63(2m).



Sanctions Following a Conviction for a DWI Offense:  
(continued)

**Other Penalties:**

Community Service: No  
Restitution

(eg Victim's Fund): Yes The State has a victims compensation fund; this fund is supported in part by a \$150 fee imposed on each DWI offender; this fee is an addition to any fine which may also be imposed

Special Note: An adult passenger may not receive an award from this fund if they knew the driver they were riding with was intoxicated or had a BAC level of 0.10 or more; see §§949.001 et. seq. and 346.655.

Other: N/A

**Administrative Licensing Actions:**

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: None  
UVC Type of Provisions: None  
Other:

Referral to licensing agency after two or more DWI arrests; §343.16(2)

Post DWI Conviction Licensing Action:

Type of Licensing Action  
(Susp/Rev):

1st off - Susp; 2nd and 3rd offs - Rev;  
DWI injury related offs, w/or w/out great bodily harm - Rev §§343.30(g), 343.31, 343.305, and 346.65<sup>4</sup>

Term of License Withdrawal  
(Days, Months, Years, etc.):

Non-injury related DWI offs; 1st off- Susp 3-6 mos; 2nd off-Rev 6 mos to 1 yr; 3rd off - Rev 1 to 2 yrs; Injury related DWI offs Without great bodily harm - 1 to 2 yrs; With great bodily harm - 2 yrs

Mandatory Minimum Term of  
Withdrawal:

1st off - see footnote 1; 2nd off - see footnote 2; 3rd off - see footnote 3; Injury related DWI offs Without great bodily harm - 60 dys; With great bodily harm - 120 dys

<sup>1</sup>Susp 3 to 6 mos where there has been no previous refusals or DWI type off conviction of any type within 5 yrs; a restricted hardship license may be issued.

<sup>2</sup>Rev 6 mos to 1 yr if there has been one previous refusal and/or DWI type off conviction of any type within 5 yrs; i.e., two refusals/convictions within 5 yrs; a restricted license may be issued after 30 dys.

<sup>3</sup>Rev 1 to 2 yrs if there has been two previous refusals and/or DWI off convictions within 5 yrs; i.e., three refusals/convictions within 5 yrs; a restricted license may be issued after 60 dys.

<sup>4</sup>Note: See §343.30(1P) where a violation of §346.46(2M) by a person under the legal drinking age results in a 3 mo license susp; however, an occupational license is available.

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Sanctions Following a Conviction for a DWI Offense:  
(continued)

Other:

Rehabilitation:

Alcohol Education: Yes

Alcohol Treatment: Yes

Alcohol Education/  
Treatment as an Altern-  
ative to Criminal  
Licensing Actions  
(Describe):

Operating privileges shall be suspended if a person does not comply with Court-ordered alcohol/drug assessment (DWI screening), education or treatment program; see §343.30(d)

Vehicle Impoundment/Confiscation:

Authorized by Specific  
Statutory Authority: No

Terms Upon Which Vehicle  
Will Be Released: N/A

Other: Note: Vehicles may be impounded as a result of an operator- owner's failure to post security for an accident; see §344.14 and for a conviction of driving while license is either suspended or revoked; see §343.44(4)

Miscellaneous Sanctions

Not Included Elsewhere: Note: See §343.30(1p) where a violation of §346.63(2m) results in a 3 mo license susp; however, an occupational license is available

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Off:

Yes—C1 E felony where death is caused by operating a veh with a high degree of negligence; C1 D felony Where death is caused by the operating a veh in an intoxicated condition §§343.10, 343.31, 939.50, 940.08, and 940.09

Sanctions:

Criminal Sanction:

Imprisonment (Term):

C1 E felony—Not more than 2 yrs; C1 D felony—Not more than 5 yrs; (Wis. Stat. Ann. §§343.10, 343.31, 939.50, 940.08, and 940.09)

Mandatory Minimum Term:

None

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Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Fine (\$ Range):	<u>CI E felony</u> - Not more than \$10,000; <u>CI D felony</u> - Not more than \$10,000
Mandatory Minimum Fine:	None
Administrative Licensing Action:	
Licensing Authorized and Type of Action:	For <u>CI E &amp; D felonies</u> - Rev
Length of Term of Licensing Withdrawal:	<u>CI E felony</u> - 1 yr; <u>CI D felony</u> - 5 yrs
Mandatory Action—Minimum Length of License Withdrawal:	<u>CI E felony</u> - A restricted license may be issued; <u>CI D felony</u> - 120 dys; A restricted license may be issued after this period.
Other:	N/A
Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:	
Sanction:	
Criminal:	
Imprisonment (Term):	<u>1st off</u> -Not more than 6 mos; <u>2nd off</u> <sup>1</sup> - 10 dys to 6 mos; <u>3rd off</u> -30 dys to 9 mos; <u>4th off</u> - 60 dys to 1 yr; <u>5th and subsequent offs</u> -6 mos to 1 yr; (Within 5 yrs) §§343.31 and 343.44
Mandatory Minimum Term of Imprisonment:	None
Fine (\$ Range):	<u>1st off</u> -\$150 to 600; <u>2nd off</u> - \$300 to 1,000; <u>3rd off</u> -\$1,000 to 2,000; <u>4th off</u> -\$1,500 to 2,500; <u>5th and subsequent offs</u> - \$2,000 to 2,500 343.31 and 343.44)
Mandatory Minimum Fine:	None
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	Rev
Length of Term of License Withdrawal Action:	6 mos
Mandatory Term of License Withdrawal Action:	A mandatory license withdrawal period is not specified; a restricted license could be issued but only if there has been no previous susp or rev for the past yr.

<sup>1</sup>Within 5 yrs

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Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Habitual Offender Laws:

State Has Such Law (Yes/No):	Yes §351.1-.11
Grounds for Being Declared an Habitual Offender:	Four or more serious offs or 12 or more normal moving violations w/n 5 yrs
Term of License Rev While Under Habitual Offender Status:	5 yrs (A hardship license may be issued after 2 yrs of the rev period have passed; see §351.07)
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	N/A
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	90 dys
Mandatory Minimum Term of Imprisonment:	N/A
Fine (\$ Range):	Up to \$1,000
Mandatory Minimum Fine (\$):	N/A
Licensing Actions (Specify):	N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No):	Yes
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes
Vehicle Passengers:	No
Pedestrian:	Yes

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase:	19 (Yr eff: 1984) §§125.07(1) & 125.07(4)
Minimum Age (Years) Possession:	19 Applies to either possession or consumption in public places unless accompanied by a parent or guardian §§125.07(1) & 125.07(4)
Minimum Age (Years) Consumption:	19 Applies to either possession or consumption in public places unless accompanied by a parent or guardian

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Other State Laws Related To Alcohol Use  
And Driving: (continued)

**Dram Shop Laws and Related Legal Actions:**

State Has a Dram Shop Law (Yes/No): No (Wis. Stat. Ann. §176.35 repealed)

"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation):

Sorenson v. Jarvis, 350 N.W.2d 108 (Wis, 1984)

Dram Shop Actions--Social Hosts:

Yes (Limited) Note: Liability is limited  
to the actions of intoxicated minors; see  
Koback v. Crook, 366 N.W.2d 859 (1985)

Other:

N/A

**Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

Type of Criminal Action:

Misd §§125.07(2)(a) & (b)

Term of Imprisonment:

Not more than 60 dys

Fine (\$ Range):

\$100-500

**Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:**

License to Serve Alcoholic Beverages

Withdrawn (Yes/No):

Rev §125.12

Length of Term of License Withdrawal: 12 Months

**Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:**

Type of Criminal Action:

All offs are violations and they are therefore  
not criminal offs §125.07(1)(a) & (b)

Term of Imprisonment:

N/A

Fine (\$ Range):

1st off - Not more than \$500; 2nd and  
subsequent offs (w/n 12 mos) - \$200-500

STATE - Wisconsin

Other State Laws Related To Alcohol Use  
And Driving: (continued)

Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No):

Yes for 2nd and subsequent offs;  
§125.07(1)(b)(2)

Length of Term License Withdrawal:

1st offs - N/A; 2nd offs (w/n 12 mos) -  
Susp. not more than 3 dys; 3rd offs (w/n 12  
mos) - Susp. 3 to 10 dys; 4th off (w/n 12  
mos) - Susp. 15 to 30 dys (Also, possible  
Rev for 12 mos under §125.12.)

Anti-Happy Hour Laws/Regulations:

No

Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:

Open Container Law (Yes/No):

Yes §§346.735(2) & (3)

Anti-Consumption Law (Yes/No):

Yes - driver and passengers §346.935(1)  
(Does not apply to a motor bus)

STATE: WYOMING  
General Comments: See Wyoming Statutes Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): N/A  
Presumption (BAC Level): 0.10 §31-5-233(b)(iii)  
Types of Drugs/Drugs and Alcohol: (1) Controlled Substance and (2) a Combination of Alcohol and Any Controlled Substance §31-5-233(c)  
Other:

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: No  
Implied Consent Law:  
Arrest Required (Yes/No): Yes  
Implied Consent Law Applies to  
Drugs (Yes/No): No  
Refusal to Submit to Chemical Test  
Admitted into Evidence: Yes (Criminal and Civil Cases) §31-6-105(f)  
Other Information: N/A

Other Chemical Tests for BAC Level Which  
Are Authorized Under Law (Implied Consent Law):

Blood: Yes  
Urine: Yes  
Other: N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No  
Anti-Plea Bargaining Statute (Yes/No): Yes §31-5-233(h) A DWI charge may not be reduced or dismissed, unless the State in open court move or files a statement containing supporting facts to indicate that there is insufficient evidence to support the original DWI charge.  
Pre-Sentencing Investigation Law (PSI) (Yes/No): No

Sanctions for Refusal to Submit to a BAC  
Chemical Test:

Refusal to Take a Preliminary Breath Test:  
Criminal Sanctions (Fine/Jail): N/A  
Administrative Licensing Action  
(Susp/Rev): N/A  
Other: N/A

STATE - Wyoming

Sanctions for Refusal to Submit to a BAC  
Chemical Test: (continued)

Refusal to Take Implied Consent  
Chemical Test

Criminal Sanction (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	Susp for 6 mos (Mandatory) §31-6-102(c)
Other:	N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years,  
Etc.):

1st off Misd - Not more than 6 mos;  
Subsequent offs (w/n 5 yrs) Misd - 7 dys to 6  
mos<sup>1</sup>; Serious bodily injury DWI off  
(§31-5-233(g)), 1st off - Not more than 1  
yr; Subsequent offs - Not more than 20 yrs  
Subsequent DWI offs (w/n 5 yrs)-7 dys (see  
Special Note under Other); §§31-5-233, 31-6-101,  
and 31-7-127 et seq.

Mandatory Minimum Term:

Fine:

Amount (\$ Range):

1st off - Not more than \$750; Subsequent  
offs - \$200 to 750; Serious bodily injury  
DWI off (§31-5-233(g)), 1st off - Not more than  
\$5,000; subsequent off - None

Mandatory Min. Fine (\$):

N/A

Other Penalties:

Community Service:

N/A

Restitution

(eg Victim's Fund)

N/A

Other:

Special Note: Under §31-5-233(F), a defendant  
may be allowed out of jail long enough to  
complete actual hrs of employment or education  
and a reasonable time to travel to and from his  
place of employment or school (i.e., work/school  
release program)

<sup>1</sup>The discretionary portion of a jail sentence may be suspended if the defendant agrees to pursue and complete an alcohol education and treatment program; see §31-5-233(d).

<sup>2</sup>For a 1st admin. per se action, the 90 day suspension may be withdrawn or modified if the defendant participates in either an alcohol education or treatment program; see §31-7-105.



STATE - Wyoming

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:

Yes, 0.10% BAC Susp. for 90 dys  
(for a subsequent action w/n 5 yrs, this  
susp. is mandatory)<sup>2</sup>-A person arrested for a  
DWI off has their license taken by the arresting  
officer; the officer issues a temporary license  
to the driver; this temporary license is valid  
for 30 dys. See §§31-5-1205(k), 31-6-102,  
and 31-6-103

UVC Type of Provisions:

No

Other:

N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action

(Susp/Rev):

1st off-Susp; 2nd off (w/n 5 yrs)- Susp;  
3rd & Sub. offs (w/n 5 yrs)- Rev  
§31-7-127(d); DWI serious bodily injury offs-  
Rev; see comment below

Term of License Withdrawal

(Days, Months, Years, etc.):

1st off - 90 dys; 2nd off (w/n 5 yrs) - 1  
yr; 3rd & subsequent offs - 3 yrs; DWI  
serious bodily injury offs - see comment below

Mandatory Minimum Term of  
Withdrawal:

1st off - A hardship license may be available;  
see Rehabilitation; 2nd off (w/n 5 yrs) - 1  
yr; 3rd & subsequent offs (w/n 5 yrs) - 3  
yrs to 5 yrs; DWI serious bodily injury offs,  
for 1st and 2nd offs-1 yr; 3rd off (w/n 5  
yrs)-3 yrs

Comment: Even though convictions for DWI  
serious bodily injury offenses clearly result in  
mandatory license revocations (sec.

31-5-233(g)(iii), Wyoming law does not provide  
specific guidance as to the length of such  
revocations.

For a first offense, the law establishes no  
clear period of mandatory license revocation.

For two reasons, the mandatory license  
revocation provisions of sec. 31-7-127 would not  
apply to a first conviction for a DWI

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Comment (continued)

serious bodily injury offense.

(1) The one (1) year mandatory license revocation provided for under sec. 31-7-127(a)(i) & (b) for any felony conviction related to the operation of a motor vehicle does not apply since a conviction for a first DWI serious bodily injury offense is not a felony. (Note: A felony is defined as any offense for which a person may be sentenced to serve more than one (1) year in prison; see sec. 6-10-101. However, for a first DWI serious bodily injury offense conviction, the maximum prison term is only one (1) year; see sec. 31-5-233(g)(i).) And, (2) the three (3) year mandatory license revocation for DWI convictions (sec. 31-5-233 convictions) under sec. 31-7-127(a)(ii) only occurs when there is a third or subsequent offense committed with a five (5) year period (see below). In addition, there are no other provisions of Wyoming law that provide for revocation periods in the absence of ones specifically established under law. As a result, the law does not provide for a specific license revocation period for a first DWI bodily injury offense.

As far as mandatory license revocations for subsequent offenses are concerned, the issue is whether such offenses will result in either a one (1) year or three (3) year period of revocation. Subsequent convictions for DWI serious bodily injury offenses are felony convictions since a defendant may be sentenced to serve up to 20 years in prison (secs. 6-1-101 and 31-5-233(g)(ii)). Consequently, a license would be revoked for at least one (1) year as noted above under sec. 31-7-127(a)(i) & (b). However, as also noted above, if three (3) or more subsequent DWI convictions occur within a five (5) year period, a license could, it appears, be revoked for three (3) years. (Note: Section 31-7-128(a)(ii) does not distinguish between "regular" and serious bodily injury subsequent DWI offenses for license revocation purposes and, as such, it could be argued that the three (3) year license revocation period applies to both types of offenses.)

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Comment (continued)

For subsequent DWI serious bodily injury offense convictions, a license revocation for either one (1) or three (3) years may be meaningless. Persons convicted of such offenses face severe prison sentences (up to 20 years) which could last longer than their license revocation period. Thus unless such revocation period starts to run after the person's release from prison, its value is questionable since it would occur in whole or in part during a period of time when the person is confined and unable to operate a motor vehicle regardless of their licensing status.

SPECIAL NOTE: Section 31-7-129(b) provides for discretionary license suspensions by the State based on a DWI conviction. The suspension periods are as follows: For a 1st conviction there is a 90 day suspension and for subsequent conviction there is a one (1) year suspension.

Other:

Rehabilitation:

Alcohol Education:

Yes 1. The court may suspend part or all of the discretionary portion of an imprisonment sentence under §31-5-233(d) if the defendant agrees to pursue and completes an alcohol education or treatment program as prescribed by the court; see §31-5-233(d)

2. In order to obtain a hardship license, the defendant must agree to pursue and complete an alcohol education and treatment program as the driver licensing agency prescribes; see §31-7-127(e)(i)

Yes

Alcohol Treatment:

Alcohol Education/

Treatment as an Alternative to Criminal Licensing Actions (Describe):

Yes, see Alcohol Education above

STATE - Wyoming

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Vehicle Impoundment/Confiscation:

Authorized by Specific

Statutory Authority: No

Terms Upon Which Vehicle

Will Be Released: N/A

Other:

For a subsequent DWI conviction w/n 2 yrs, a defendant's veh registration shall be suspended for the same period as their license rev/susp; see §31-7-128(c)

Miscellaneous Sanctions

Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of off:

Yes, two types of offs; 1.) Death caused by operation of a veh in violation of the motor vehs laws regulating traffic control 2.) Aggravated veh homicide if death caused veh DWI §6-2-106

Sanctions:

Criminal Sanction:

Imprisonment (Term):

1.) Death by a violation of the motor veh laws - Not more than 1 yr; 2.) Aggravated veh homicide if death caused veh DWI - Not more than 20 yrs

Mandatory Minimum Term:

N/A

Fine (\$ Range):

Death caused by a violation of the motor veh laws - Not more than \$2,000

Mandatory Minimum Fine:

N/A

Administrative Licensing Action:

Licensing Authorized and

Type of Action:

Rev or susp (§31-7-126(a)(ii) (repealed) but see §31-5-1117)

Length of Term of

Licensing Withdrawal:

Not more than 12 mos

Mandatory Action--Minimum

Length of License

Withdrawal:

Not more than 12 mos

Other:

N/A

STATE - Wyoming

Other Criminal Actions Related to Alcohol  
Use and Driving: (continued)

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term):	Misd - Not more than 6 mos §31-7-135(a)
Mandatory Minimum Term of Imprisonment:	None
Fine (\$ Range):	Not more than \$750
Mandatory Minimum Fine:	None

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev):	Susp or rev
Length of Term of License Withdrawal Action:	The original susp or rev period is extended 1 yr §31-7-135(b)
Mandatory Term of License Withdrawal Action:	The original susp or rev period is extended 1 yr §31-7-135(b)

Habitual Offender Laws:

State Has Such Law (Yes/No):	No
Grounds for Being Declared an Habitual Offender:	N/A

Term of License Rev While Under Habitual Offender Status:	N/A
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	N/A

Sanctions Following a Conviction of  
Driving While on Habitual Offender  
Status:

Imprisonment (Term):	N/A
Mandatory Minimum Term of Imprisonment:	N/A
Fine (\$ Range):	N/A
Mandatory Minimum Fine (\$):	N/A
Licensing Actions (Specify):	N/A

STATE - Wyoming

Other State Laws Related to Alcohol

Use and Driving:

Laws Requiring BAC Chemical Tests on  
Those Persons Killed in Fatal Traffic  
Crashes:

State Has Such a Law (Yes/No): Yes 20 §4935

BAC Chemical Test Is Given to the  
the Following Persons:

Driver: Yes

Vehicle Passengers: No

Pedestrian: No

Laws Establishing the Minimum Ages  
Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 19 §12-6-10(b) (yr eff: 1983)

Minimum Age (Years) Possession: 19 Applies to possession in a public place;  
there are exemptions for either employment or by  
order of a parent §12-6-10(b)

Minimum Age (Years) Consumption: N/A

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): Yes, in conjunction with case law; see  
below, see §12-8-301<sup>1</sup>

"Dram Shop Law" Concept Has Been  
Adopted Via a Change to the Common  
Law Rule by Action of the Highest  
Court of Record in the State (Case  
Citation):

Yes, McClellan v. Tottenhoff, 666 P.2d. 408  
(Wyo. 1983)

Dram Shop Actions-Social Hosts: No §12-8-301(b) Special Note: Social hosts  
who serve alcoholic beverages illegally may  
be liable for resulting damages.

Other: N/A

Criminal Action Against Owner or Employees  
of Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

Type of Criminal Action: None (Note: §12-5-501 repealed)

Term of Imprisonment: N/A

Fine (\$ Range): N/A

<sup>1</sup>12-8-301(b) specifically prohibits Dram Shop type actions against non-licensees (e.g. social hosts); however, under 12-8-301(d), a person, it appears could be liable for damages if alcoholic beverages are served in violation of the alcoholic beverage control law (Title 12 of the Wyoming Statutes).

STATE - Wyoming

Other State Laws Related to Alcohol  
Use and Driving: (continued)

Administrative Actions Against Owners of  
Establishments that Serve Alcoholic  
Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): N/A  
Length of Term of License Withdrawal: N/A

Criminal Actions Against Owners or  
Employees of Establishments that Serve  
Alcoholic Beverages or the Wrong Type  
of Alcoholic Beverage to Those Persons  
Under the Minimum Legal Drinking Age:

Type of Criminal Action: Misd §§12-6-101, and 12-8-101)  
Term of Imprisonment: Not more than 6 mos  
Fine (\$ Range): Not more than \$750

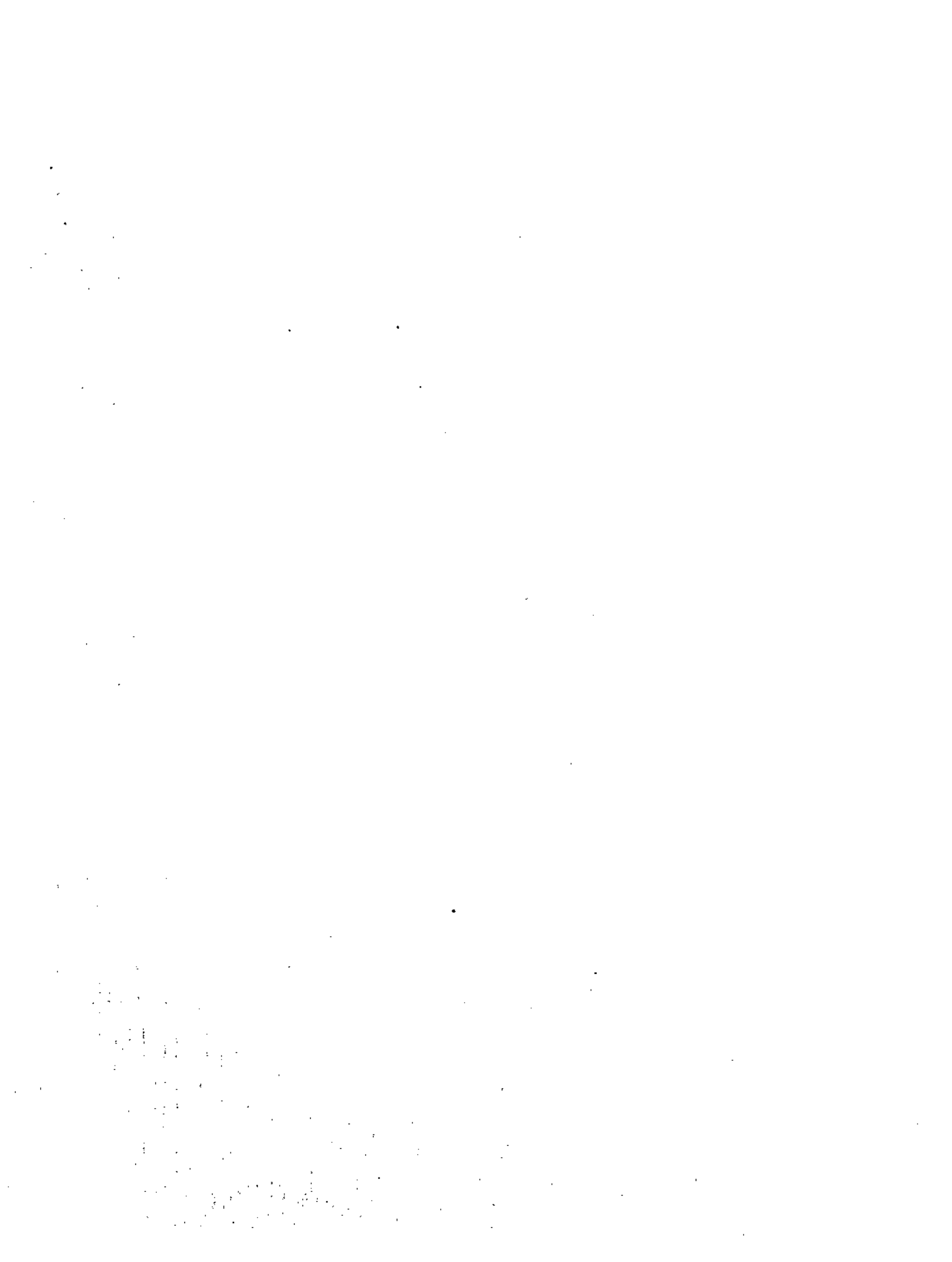
Administrative Actions Against Owners of  
Establishments That Serve Alcoholic  
Beverages to Those Persons Under the  
Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages  
Withdrawn (Yes/No): Susp or rev where there is gross violation  
of the law  
Length of Term License Withdrawal: A susp is not to exceed the balance of the term  
for which the license was issued; as for rev, no  
time period is specified in the statute.  
§12-7-102

Anti-Happy Hour Laws/Regulations:  
Laws Prohibiting (1) the Possession of  
Open Containers of Alcoholic Beverages  
and (2) the Consumption of Alcoholic  
Beverages in the Passenger Compartment  
of a Vehicle:

Open Container Law (Yes/No): No  
Anti-Consumption Law (Yes/No): No

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