



You and the Drinking Driving Laws

Q WHY ARE PENALTIES FOR DRINKING AND DRIVING SO STRICT?

A Drinking and driving is a hazardous combination.

CONSIDER THESE FACTS:

- One third of the fatalities in New York State involve impaired or intoxicated drivers and pedestrians,
- With increased Blood Alcohol Content (BAC), crash risk increases sharply. A driver with a BAC of 0.08 is four times as likely to cause a crash as a driver who has not been drinking, while a driver with a BAC of 0.16 is 25 times as likely to do so.
- Young drinking drivers are at the highest risk of all. Drivers 20 years old or younger are almost three times as likely to be involved in alcohol related fatal crashes than other drivers.

Q HOW MUCH CAN I DRINK BEFORE IT AFFECTS MY DRIVING ABILITY?

A Any amount of drinking will begin to affect your judgment and coordination, and reduce your ability to judge distances, speeds and angles. The degree of impairment depends on four basic factors:

1. The amount you drink.
2. Whether you've eaten before or while drinking (food slows absorption).
3. Your body weight.
4. The length of time spent drinking.

No one should consume alcohol and drive. Everyone's safe driving ability deteriorates after drinking. Some people, especially young drivers, lose their driving skills even more quickly. This is why New York State law makes it illegal for any driver or passenger to possess an alcoholic beverage with intent to consume (commonly called

the "open container" law).

It is also illegal to purchase an alcoholic beverage if you are under 21 years old.

Q WHAT IS THE QUICKEST WAY TO SOBER UP?

A The only way to reduce your BAC after drinking, is to wait for your body to metabolize (eliminate) the alcohol – and that takes several hours. Your body metabolizes about one drink each hour. Coffee will not sober you up. Neither will a walk or a cold shower. They may make you feel more awake, but you will be just as impaired, and it will be just as dangerous for you to drive.

Q WHAT SHOULD I DO IF I DRINK TOO MUCH?

A Find someone who has not been drinking to drive your car or give you a ride home, or call for a taxi.

Q HOW CAN I AVOID RIDING WITH A DRIVER WHO'S BEEN DRINKING?

A You have a right and a responsibility to say "No!" Think of other ways of getting home for BOTH of you. Don't feel embarrassed or afraid to call your home for help. Or call a friend, or a taxi. Your life may be at stake. Your chances of being involved in a fatal collision are many times greater if you ride with a driver who has been drinking.

Q WHAT ARE THE CHANCES OF BEING CAUGHT IF I DRIVE AFTER DRINKING ALCOHOL?

A Greater than ever before. Drinking driving enforcement and prosecution are more effective as a result of New York State's STOP-DWI law. The law returns drinking driving fines to counties that use the money to operate programs for drinking driving enforcement, prosecution, adjudication, and education. Every county in New York State has a STOP-DWI program. This results in more police with better equipment on the roads looking for drinking or impaired drivers, more district attorneys prosecuting them, and more judges hearing drinking driving cases.

Q WHAT WILL HAPPEN TO ME IF I AM STOPPED BY THE POLICE?

A If you are stopped by a police officer who believes you are under the influence of alcohol or drugs, you may be required to take a "field sobriety test" which may include a breath-screening test for the presence of alcohol. If you are arrested, you will be asked to take a "chemical test" for BAC. You may also be fingerprinted. Driving While Intoxicated (DWI) is a crime. If you are convicted, you will face a substantial fine, a mandatory surcharge, license revocation, higher insurance premiums, and a possible jail sentence.

Q WHAT IS BLOOD ALCOHOL CONTENT (BAC)?

A BAC (Blood Alcohol Content) is a measure of the concentration of alcohol in a person's blood. It is the best predictor of the likelihood of crash involvement.

Q ARE LICENSE PENALTIES THE SAME FOR ALL AGE GROUPS?

A No. If you are under 21 your driver license will be revoked for one year if you are convicted of DWI or DWAI that occurred in New York State, or in any other state or a province of Canada.

If you commit a second such offense while you are under 21, your license will be revoked for at least one year or until you are 21, whichever is longer.

If you enroll in the Drinking Driver Program (DDP) and receive a conditional license, your license will remain in conditional status for the original full period of revocation.

Your driver license or privilege of applying for a license will also be suspended if you are found guilty of using a New York State Driver License or Non-Driver Identification Card as proof of age to illegally purchase alcoholic beverages.

NOTE: Motorboat and snowmobile operators under 21 years old who drink alcohol are subject to similar penalties and sanctions against their motorboat or snowmobile operating privileges.

Q IS IT POSSIBLE TO "PLEA BARGAIN" TO AVOID A CONVICTION FOR DRINKING AND DRIVING?

A No, the law prohibits a plea to a non-alcohol or drug-related violation.

Q WHAT WILL HAPPEN IF I REFUSE TO TAKE THE CHEMICAL TEST?

A If you refuse a chemical test for BAC (Blood Alcohol Content), your license will be suspended at arraignment in court, and revoked for at least one year (18 months for a commercial driver) at a Department of Motor Vehicles hearing. If you are age 21 or over, and you have a second refusal within five years of a previous refusal or alcohol conviction, your license is revoked for 18 months (permanent for a commercial driver).

If you are under age 21, and you have a second refusal within five years of a previous refusal or alcohol conviction, your license is revoked for one year or until age 21, whichever is longer.

You will also be subject to a civil penalty of \$500 (second offense, \$750). A driver under 21 years old who refuses to take a chemical test under the Zero Tolerance Law is subject to a 1-year license revocation and a \$300 civil penalty. The penalties and fines for refusing to submit to a chemical test are separate from, and in addition to, the penalties and fines for alcohol or drug-related convictions.

Q WHAT ABOUT COMMERCIAL DRIVERS?

A Compared to other drivers, every driver holding a Commercial Driver License (Class A, B, or C) is held to stricter Blood Alcohol Content (BAC) standards, and faces tougher penalties, while operating a vehicle that requires a CDL license. A single conviction for DWI, DWAI, or having a .04 percent or higher BAC requires a minimum 1-year revocation of the driver's license (3-years, if driving a vehicle that requires hazardous materials placards). A second conviction within the driver's lifetime results in permanent revocation, with a possible waiver after 10 years. A third conviction results in a permanent revocation without any possibility of ever getting it back. Drivers who hold a commercial license should review the Commercial Driver's Manual (CDL-10), available at motor vehicle offices, for additional information about penalties that apply to them.

Q WHAT IS THE "ZERO TOLERANCE" LAW?

A This law makes it illegal for a driver under age 21 to have consumed any alcohol. A police officer may temporarily detain you to request or administer a chemical test to determine your Blood Alcohol Content (BAC). If your BAC is .02 to .07 percent, you will be notified to appear at a DMV hearing. If the judge's finding supports the charge, the penalty is a 6-month license suspension, a \$125 civil penalty, and a \$100 suspension termination fee. Each additional offense will result in your license being revoked for at least one year or until age 21, whichever is longer, plus a \$125 civil penalty, and a \$100 license re-application fee.

NOTE: If your BAC is .05 percent or greater, the police may charge you with driving while ability impaired (DWAI) or driving while intoxicated (DWI), and may prosecute your arrest in criminal court.

Q WHAT IS THE "IGNITION INTERLOCK" PROGRAM?

A Under some circumstances, a court can order a driver to purchase and install an ignition interlock device. This device connects to a motor vehicle ignition system and measures the alcohol content of the operator's breath. It prevents the vehicle from being started until the motorist provides an appropriate sample breath. If a court requires a driver to install an ignition interlock device, this restriction will be reflected on the license document, denoted as "interlock device." During the remaining period of probation, some motorists may be eligible to hold a post-revocation conditional license. This conditional license will be revoked if the motorist fails to comply with the terms of probation or for conviction of any traffic offense other than illegal parking, stopping or standing.

AGGRAVATED DRIVING WHILE INTOXICATED
A-DWI (.18 and higher Blood Alcohol Content [BAC])

CONVICTION	FINE ONLY*	JAIL SENTENCE	LICENSE ACTION**
1st Offense (Misdemeanor)	Minimum \$1,000 Maximum \$2,500	Up to 1 Year	Minimum 1-year revocation
2nd Offense Within 5 years (Class E Felony)	Minimum \$1,000 Maximum \$5,000	Up to 4 Years; minimum 5 days jail or 30 days of community service	Minimum 18-month revocation
3rd Offense or more Within 10 years (Class D Felony)	Minimum \$2,000 Maximum \$10,000	Up to 7 Years; minimum 10 days jail or 60 days of community service	Minimum 18-month revocation**

DRIVING WHILE INTOXICATED

DWI (.08 and higher Blood Alcohol Content [BAC] or other evidence of intoxication)
or

DRIVING WHILE ABILITY IMPAIRED BY A DRUG

DWI-Drug

CONVICTION	FINE ONLY*	JAIL SENTENCE	LICENSE ACTION**
1st Offense (Misdemeanor)	Minimum \$500 Maximum \$1,000	Up to 1 Year	Minimum 6-Month Revocation
2nd Offense Within 10 years (Class E Felony)	Minimum \$1,000 Maximum \$5,000	Up to 4 Years; minimum 5 days jail or 30 days of community service	Minimum 1-Year Revocation, plus ignition interlock and alcohol assessment
3rd Offense or more Within 5 years (Class D Felony)	Minimum \$2,000 Maximum \$10,000	Up to 7 Years; minimum 10 days jail or 60 days of community service	Minimum 1-Year Revocation, plus ignition interlock and alcohol assessment
2nd Offense Within 10 years (Class E Felony)	Minimum \$1,000 Maximum \$5,000	Up to 4 Years	Minimum 1-Year Revocation
3rd Offense or more Within 10 years (Class D Felony)	Minimum \$2,000 Maximum \$10,000	Up to 7 Years	Minimum 1-Year Revocation

DRIVING WHILE ABILITY IMPAIRED BY A COMBINATION OF ALCOHOL OR DRUGS

DWAI-Combination

CONVICTION	FINE ONLY*	JAIL SENTENCE	LICENSE ACTION**
1st Offense (Misdemeanor)	Minimum \$500 Maximum \$1,000	Up to 1 Year	Minimum 6-Month Revocation
2nd Offense Within 5 years	Minimum \$1,000 Maximum \$5,000	Up to 4 Years	Minimum 1-Year Revocation

(E Felony)

3rd Offense Within 10 years	Minimum \$1,000 Maximum \$5,000	Up to 7 Years	Minimum 18-Month Revocation**
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(D Felony)

DRIVING WHILE ABILITY IMPAIRED BY ALCOHOL
DWAI (more than .05 up to .07 Blood Alcohol Content [BAC])

CONVICTION	FINE ONLY*	JAIL SENTENCE	LICENSE ACTION**
1st Offense (Traffic Infraction)	Minimum \$300 Maximum \$500	Up to 15 Days	90-Day Suspension
2nd Offense Within 5 years (Traffic Infraction)	Minimum \$500 Maximum \$750	Up to 30 Days	Minimum 6-Month Revocation
3rd Offense Within 10 years (Misdemeanor)	Minimum \$750 Maximum \$1,500	Up to 180 Days	Minimum 1-Year Revocation if current violation occurred within 5 years of previous violation**

ZERO TOLERANCE

Drivers Under 21 (DMV administrative finding of .02 to .07 Blood Alcohol Content [BAC])

	CIVIL PENALTY	LICENSE ACTION	ADDED FEE
1st Offense	Minimum \$125	6-Month Suspension	\$100 Suspension Termination Fee
2nd Offense	Minimum \$125	1-Year Revocation or until age 21, whichever is longer	\$100 Re-Application Fee

* Conviction fine only. Does not include mandatory conviction surcharge or crime victims assistance fee.

** For license revocations, the Department of Motor Vehicles determines when your license can be returned. Its return or reinstatement, based on state law or regulation, is not automatic. You must reapply for your license and may have to take a test. Three or more alcohol or drug-related offenses with 10 years can result in a **permanent revocation**, with a waiver request permitted after at least five years.

Mandatory Screening - If you are charged with or convicted of certain alcohol-related offenses, the courts will order alcohol screening and/or alcohol evaluation, prior to sentencing.

LICENSE PENALTIES

In addition to the imposed fine following conviction, most motorists also must pay a mandatory surcharge and a mandatory fee for assistance to crime victims. Not including the fine, the additional required surcharge and fee, combined, may reach hundreds of dollars or more.

DRIVER RESPONSIBILITY ASSESSMENTS

In addition to paying any fines, fees, penalties and surcharges authorized by law, you may have to pay a "Driver Responsibility Assessment" for certain violations that occur on or after November 18, 2004, that result in a conviction or administrative finding. Your learner permit, driver license, or driving privileges will be suspended if you do not make these payments.

If you are convicted of Driving While Intoxicated (DWI), or Driving While Ability Impaired (DWA) or Driving While Ability Impaired by Drugs, or if you are found to have refused to submit to a chemical test, you will be required to pay a driver responsibility assessment of \$250 each year for the next three years.

If you are convicted of one or more traffic violations resulting in six points in any 18-month period, you will be required to pay \$100 each year for the next three years. For each additional point accumulated during that period, you will be required to pay another \$25 per point every year for three years. For information on how points are assessed, see "The Point System" in Chapter 2 of the New York State Driver's Manual. Completion of a motor vehicle accident prevention course will not reduce the calculation of points affecting the driver responsibility assessment.

NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES



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