You And The Drinking Driving Laws

NYSDMV



Q WHY ARE PENALTIES FOR DRINKING AND DRIVING SO STRICT?

A Drinking and driving is a hazardous combination.

- 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 more 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 more likely to do so.
- Young drinking drivers are at the highest risk of all. Drivers 20 years old or younger are almost three times more 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 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. This is 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 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 are found to have refused to take a chemical test in New York State, even if not convicted of DWI or DWAI, your license will be revoked for one year.

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 gulity 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.*

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AGGRAVATED DRIVING WHILE INTOXICATED
AGG-DWI (0.18 AND HIGHER BAC [BLOOD ALCOHOL CONTENT])

CONVICTION	FINE ONLY [1]	JAIL SENTENCE	LICENSE ACTION & REQUIREMENTS [4]	
			AGE 21 & OLDER	UNDER AGE 21
1st Offense (Misdemeanor)	Minimum $1000 Maximum $2500	Up to 1 Year	Minimum 1-Year Revocation	Minimum 1-Year Revocation
2nd Offense Within 10 Years (Class E Felony)	Minimum $1000 Maximum $5000	Up to 4 Years [2]	Minimum 18-Month Revocation	18-Month Revocation or until age 21, whichever is longer
3rd Offense or more Within 10 Years (Class D Felony)	Minimum $2000 Maximum $10000	Up to 7 Years [3]	Minimum 18-Month Revocation	18-Month Revocation or until age 21, whichever is longer

DRIVING WHILE INTOXICATED (DWI or .08 and higher BAC)
DRIVING WHILE IMPAIRED BY DRUG (DWAI-DRUG)
DRIVING WHILE IMPAIRED BY COMBINED ALCOHOL & DRUG (DWAI-Combination)

CONVICTION	FINE ONLY [1]	JAIL SENTENCE	LICENSE ACTION & REQUIREMENTS [4]	
			AGE 21 & OLDER	UNDER AGE 21
1st Offense (Misdemeanor)	Minimum $500 Maximum $1000	Up to 1 Year	Minimum 6-Month Revocation	Minimum 1-Year Revocation
2nd Offense Within 10 Years (Class E Felony)	Minimum $1000 Maximum $5000	Up to 4 Years [2]	Minimum 1-Year Revocation	1-Year Revocation [5] or until age 21, whichever is longer
3rd Offense or more Within 10 Years (Class D Felony)	Minimum $2000 Maximum $10000	Up to 7 Years [3]	Minimum 1-Year Revocation	1-Year Revocation or until age 21, whichever is longer

DRIVING WHILE ABILITY IMPAIRED BY ALCOHOL
DWAI (MORE THAN .05 UP TO .07 BAC)

CONVICTION	FINE ONLY [1]	JAIL SENTENCE	LICENSE ACTION & REQUIREMENTS [4]	
			AGE 21 & OLDER	UNDER AGE 21
1st Offense (Traffic Infraction)	Minimum $300 Maximum $500	Up to 15 Days	90-Day Suspension	Minimum 1-Year Revocation
2nd Offense Within 5 Years (Traffic Infraction)	Minimum $500 Maximum $750	Up to 30 Days	Minimum 6-Month Revocation	1-Year Revocation or until age 21, whichever is longer
3rd Offense or more Within 10 Years (Misdemeanor)	Minimum $750 Maximum $1500	Up to 180 Days	Minimum 6-Month Revocation	1-Year Revocation or until age 21, whichever is longer

1. Conviction fine only. Does not include mandatory conviction surcharge or crime victims assistance fee.
2. Minimum 5 days jail or 30 days community service if within 5 years of first offense.
3. Minimum 10 days jail or 60 days community service if within 5 years of prior offense.
4. The Department of Motor Vehicles determines when your license can be returned or reinstated, based on state law or regulation.
5. If prior conviction is aggravated DWI, revocation is 18-months or until age 21, whichever is longer.



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

A No, the law generally 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 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 (second offense, 18 months) at a Department of Motor Vehicles hearing. 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 $125 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 Any driver convicted of misdemeanor or felony drunk driving charges – even first-time offenders – are required to install and maintain ignition interlock devices at their own expense on any vehicles they own or operate. For an Aggravated DWI offense or any repeat alcohol or drug offense within five years, a judge is required to order the system installed on each vehicle owned or operated by the motorist during both the revocation period and any probation period that follows. The judge also must order an alcohol assessment for the repeat offender.

The device, purchased and installed at the expense of the motorist, is connected to a motor vehicle ignition system and measures the alcohol content of the operator's breath. As a result, the vehicle cannot be started until the driver provides an acceptable sample breath. The motorist may be qualified to hold a conditional license during the time an interlock device is in use. This conditional driver license will be revoked if the motorist does not comply with the court terms or for conviction of any traffic offense except parking, stopping or standing.



Q WHAT IS LEANDRAS LAW?

A This legislation makes operating a motor vehicle while intoxicated or under the influence of drugs with a passenger under the age of 16 a Class E felony punishable by up to four years in state prison. Courts must order all drivers, including youthful offenders, convicted of driving while intoxicated or aggravated driving while intoxicated to install and maintain an ignition interlock on any vehicle owned or operated by such driver for at least 12 months. The law also makes it a felony to drive drunk with a conditional license. Drivers who drive while intoxicated or impaired by drug and cause the death of a child under 16 in the vehicle may be charged with a Class B felony punishable by up to 25 years in prison. Drivers who drive while intoxicated or impaired by drugs and cause serious physical injury to a child under 16 in the vehicle may be charged with a Class C felony punishable by up to 15 years in prison.

LICENSE PENALTIES

In addition to the imposed fine following conviction, most motorists must also 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

For each of the next three years, you will also have to pay a "Driver Responsibility Assessment" for certain violations 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.

Any driver convicted of misdemeanor or felony drunk driving charges -- even first-time offenders -- are required to install and maintain ignition interlock devices at their own expense on any vehicles they own or operate for a minimum of six months. The judge also must order an alcohol assessment for certain repeat offenders.

CONVICTIONS FOR CAUSING DEATH OR INJURY

You can be convicted of vehicular manslaughter or vehicular assault if you are found guilty of an alcohol- or drug-related driving violation that causes death or injury.

In addition to driver license revocation, each conviction is a felony punishable by imprisonment and fines under New York State Penal Law. Increased penalties are required if you have been convicted of an alcohol- or drug-related driving violation that occurred within the previous 10 years.

