



Arizona State Senate Issue Brief

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Note to Reader:

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ARIZONA DRIVING UNDER THE INFLUENCE (DUI): DUI LAWS AND DUI COURTS

INTRODUCTION

It is unlawful for any person who is under the influence of intoxicating liquor or drugs to drive or be in actual physical control of a motor vehicle. This is commonly referred to as *driving under the influence (DUI)*. If a person's blood alcohol concentration (BAC) is 0.08 or more, it is presumed in a trial that the person was under the influence of intoxicating liquor. If the vehicle is a vehicle for hire, a transportation network company vehicle or the vehicle requires the driver to obtain a commercial driver license, the licensee is presumed to be under the influence of intoxicating liquor if their BAC is 0.04 or more. For persons under 21 years old, it is a class 1 misdemeanor to drive or be in actual physical control of a motor vehicle while there is any spirituous liquor in the person's body.

DUI, EXTREME DUI AND AGGRAVATED DUI

In Arizona, there are several degrees of DUI violations that depend on the person's BAC and the circumstances of the violation. A person commits a *DUI* if the person has a BAC of 0.08 or more within two hours of driving or being in actual physical control of the vehicle and an *extreme DUI* if the person has a BAC of 0.15 or more within two hours of driving or being in actual physical control of a vehicle.¹

Additionally, Arizona penalizes certain DUI offenses depending on the person's BAC and the circumstances involved. For example, there are four primary ways to commit *aggravated DUI*. A person commits *aggravated DUI* if the person commits any type of DUI while the person's driver license or privilege to drive is suspended or otherwise restricted. A person also commits *aggravated DUI* if the person committed a third or subsequent DUI, extreme DUI or aggravated DUI, or any combination of those offenses within the past seven years, excluding time that a probationer is on absconder status or the time a person is incarcerated. The third way a person can

¹ A.R.S. §§ [28-1381](#) and [28-1382](#)

commit *aggravated DUI* if the person commits DUI or extreme DUI with a person under 15 years old in the vehicle. Finally, a person commits *aggravated DUI* if the person is required to equip a motor vehicle with a certified ignition interlock device (IID) and commits another type of DUI.²

For each DUI violation, there is a minimum jail sentence. In certain circumstances, a portion of the sentence may be suspended by the court if the person: 1) completes a court-ordered alcohol or other drug screening, education or treatment program; or 2) installs an IID for 12 months. Education programs must provide at least 16 hours of classroom instruction and treatment programs must provide at least 20 hours of participation in a group setting in addition to the education hours.³

Each DUI violation also carries a minimum fine and additional assessments. Depending on the violation committed, assessments are paid to the Driving Under the Influence Abatement Fund (DUIAF), the Prison Construction and Operations Fund (PCOF) or the Public Safety Equipment Fund (PSEF).⁴ All DUI violations that involve intoxicating liquor require the installation of an IID.⁵

Additionally, the state is prohibited from dismissing all DUI charges unless there is an insufficient legal or factual basis to pursue those charges. This prevents plea bargaining or reducing all alcohol-related offenses to nonalcohol-related offenses.⁶

ADMINISTRATIVE DRIVER LICENSE SUSPENSION

In addition to other penalties, there is an administrative driver license suspension that is handled by the Arizona Department of Transportation's Motor Vehicle Division (MVD). When a law enforcement officer arrests a person for specified offenses, including a DUI, the

officer serves an order of suspension on the person on behalf of MVD and then submits a certified report to MVD. The person's driver license is suspended 30 days after the order of suspension is served, unless the person requests a hearing within that time period. A timely request for a hearing stays the suspension until the hearing is held. If the person does not request a hearing, or if MVD determines at the hearing that suspending the person's driver license is warranted, the license is suspended for at least 90 consecutive days. However, if the person meets certain eligibility requirements, the suspension period may be reduced to 30 consecutive days, with the driver license restricted for another 60 consecutive days. A restricted license allows the licensee to drive between certain destinations during specified time periods.⁷

If a person younger than 18 years old is convicted of a DUI, extreme DUI or driving while having any spirituous liquor in the person's body, MVD immediately suspends the person's driving privilege for two years. If a person under 18 years old is convicted of an aggravated DUI, MVD suspends driving privileges for three years. For persons between 18 and 20 years old convicted of driving while having any spirituous liquor in the person's body, MVD immediately suspends driving privileges for two years.⁸

In any of these instances, a court may order the person's driving privileges to be restricted to driving between the person's home, school and place of employment during specified periods of time. MVD must issue a special ignition interlock restricted driver license to licensees in these cases.⁹

VEHICLE IMPOUNDMENT FOR EXTREME OR AGGRAVATED DUI

In addition to all other penalties, when a law enforcement officer has probable cause to arrest a driver for extreme DUI or aggravated DUI, the

² [A.R.S. § 28-1383](#)

³ [A.R.S. § 28-1301](#)

⁴ [A.R.S. § 28-1381](#)

⁵ [A.R.S. §§ 28-1381](#) and [28-1385](#)

⁶ [A.R.S. § 28-1381](#)

⁷ [A.R.S. §§ 28-144; 28-1321](#) and [28-1385](#)

⁸ [A.R.S. § 28-3320](#)

⁹ [A.R.S. § 28-3322](#)

vehicle will be either immobilized or impounded, unless all of the following requirements are met:

- vehicle registration is current.
- the driver is in compliance with automobile liability insurance requirements; and
- another person is with the driver, has a valid driver license, is not impaired, notifies the officer that the person will drive the vehicle home or to another place of safety and drives the vehicle as notified.¹⁰

REFUSAL TO SUBMIT

Operating a motor vehicle in Arizona implies that the driver gives consent to a test of the driver's blood, breath, urine or other bodily substance to determine alcohol concentration or drug content. This is commonly referred to as the implied consent law. If a law enforcement officer has reasonable grounds to believe that a driver is committing a DUI, the officer may request the driver to submit to and successfully complete one or more BAC or drug content tests. If the driver refuses to submit to a test, the driver's license is suspended for 12 months. For a second or subsequent refusal within seven years, the person's driver license is suspended for two years.

After the driver license of a person who has refused to submit to a test has been suspended and the person has completed drug or alcohol screening, the person can apply to MVD for a special ignition interlock restricted driver license.¹¹

VEHICULAR HOMICIDE

Arizona does not have a vehicle-specific homicide statute. However, in some instances a person may be charged with a homicide offense, such as manslaughter or second degree murder, for causing the death of another while under the

influence of drugs or alcohol. The person may also be charged with other criminal offenses for causing serious physical injury to another while under the influence of alcohol or drugs. Additionally, the motor vehicle may be alleged as a dangerous instrument or a BAC of 0.15 in certain criminal offenses may be used as an aggravating factor, both of which will provide for enhanced criminal penalties.¹²

DUI COURTS AND OTHER PROGRAMS

DUI courts are a fairly recent development both in Arizona and nationally. The objective of DUI courts is to target the offender's behavior with treatment of the addiction rather than jail or prison sentences. The court affords this opportunity through court interaction, probation supervision and participation in graduated levels of alcohol education and counseling. In general, the DUI court uses community providers for treatment of the participants who are chosen randomly in accordance with a research model. The DUI court program utilizes surveillance officers to make random visits to participants for breathalyzer testing.

County sheriffs, cities, towns, counties and the Arizona Department of Corrections, Rehabilitation and Reentry may establish continuous alcohol monitoring programs for DUI offenders, which allow offenders to serve a portion of their sentences in the community with an ankle bracelet that monitors and reports alcohol intake.¹³

PENALTIES FOR DUI VIOLATIONS

The penalties for DUI violations depend on the type of violation as well as the number of violations the person has committed within a seven-year period. Specific penalties can be found in the chart on the following page.

¹⁰ [A.R.S. § 28-3511](#)

¹¹ [A.R.S. § 28-1321](#)

¹² A.R.S. §§ [13-105](#); [13-701](#); [13-1103](#) and [13-1204](#)

¹³ Superior Court: [Specialized Courts](#)

ADDITIONAL RESOURCES

- DUI Statutes
[A.R.S., Title 28, Chapter 4, Article 3](#)
- Administrative License Suspension Statutes
[A.R.S., Title 28, Chapter 8, Article 6](#)
- Vehicle Impoundment Statutes
[A.R.S., Title 28, Chapter 8, Article 9](#)
- Implied Consent and Test Statutes
[A.R.S., Title 28, Chapter 4, Article 2](#)
- DUI Courts and other Programs
<https://superiorcourt.maricopa.gov/criminal/specialized-courts/>
<https://superiorcourt.maricopa.gov/apd/drug-court-program/>
<https://superiorcourt.maricopa.gov/criminal/department-information/>
- Arizona Department of Transportation
<https://azdot.gov/motor-vehicles/driver-services/driver-improvement/driving-under-influence-dui>
- Arizona Department of Public Safety
<https://www.azdps.gov/safety/impaired-driving>

PENALTIES FOR DUI VIOLATIONS*:

Violation	BAC	Classification	Min. jail sentence ¹	Min. fine	Add'l assessments ²	Driving privileges	Alcohol or other drug screening,	Other penalties
DUI 1st violation	0.08 thru 0.149	class 1 misdemeanor	10 consecutive days	\$250	\$500 to PCOF \$500 to PSEF	IID for 1 yr ³	if completed, the court may suspend all but 1 day of the sentence	possible community restitution
DUI 2nd violation within 7 yrs	0.08 thru 0.149	class 1 misdemeanor	90 days, with at least 30 consecutive	\$500	\$1250 to PCOF \$1250 to PSEF	revoked for 1 yr ⁴ , with IID for 1 yr after driving privileges restored	if completed, the court may suspend all but 30 days of the sentence	at least 30 hours community restitution
Extreme DUI 1st violation	0.15 thru 0.199	class 1 misdemeanor	30 consecutive days	\$250	\$250 to DUIAF \$1000 to PCOF \$1000 to PSEF	IID for 1 yr ³	required	possible community restitution
Extreme DUI 1st violation	0.20 or greater	class 1 misdemeanor	45 consecutive days ⁵	\$500	\$250 to DUIAF \$1000 to PCOF \$1000 to PSEF	IID for 18 months ³	required	possible community restitution
Extreme DUI 2nd violation within 7 yrs	0.15 thru 0.199	class 1 misdemeanor	120 days, with at least 60 consecutive	\$500	\$250 to DUIAF \$1250 to PCOF \$1250 to PSEF	revoked for 1 yr ⁴ , with IID for 1 yr after driving privileges restored	required	at least 30 hours community restitution
Extreme DUI 2nd violation within 7 yrs	0.20 or greater	class 1 misdemeanor	180 days, with at least 90 consecutive. No probation or suspension of sentence	\$1000	\$250 to DUIAF \$1250 to PCOF \$1250 to PSEF	revoked for 1 yr ⁴ , with IID for 2 yrs after driving privileges restored	required	at least 30 hours community restitution
Aggravated DUI 3rd or subsequent violation within 7 yrs	0.08 or greater	class 4 felony	4 months in prison for 3 rd violation, 8 months in prison for subsequent	\$750	\$250 to DUIAF \$1500 to PCOF \$1500 to PSEF	revoked for 1 yr, with IID for 2 yrs after driving privileges restored	required ⁶	possible forfeiture of vehicle
Aggravated DUI any DUI with an invalid driver license	0.08 or greater	class 4 felony	4 months	\$750	\$250 to DUIAF \$1500 to PCOF \$1500 to PSEF	revoked for 1 yr, with IID for 2 yrs after driving privileges restored	required ⁶	possible forfeiture of vehicle
Aggravated DUI any DUI with a person under 15 yrs old in the vehicle	0.08 or greater	class 6 felony	10 or 30 consecutive days, depending on BAC	\$750	\$250 to DUIAF \$1500 to PCOF \$1500 to PSEF	revoked for 1 yr, with IID for 2 yrs after driving privileges restored ⁷	required ⁶	possible forfeiture of vehicle

*A.R.S. §§ 28-1381; 28-1382; and 28-1383
See page 6 for relevant footnotes.

1. Can be reduced in some cases – see alcohol or other drug screening, education or treatment.
2. Assessments that are deposited in the DUIAF, PCOF or the PSEF are not subject to surcharges.
3. A person whose license is suspended for a first offense DUI, extreme DUI, refusal to submit or DUI with someone under the age of 15 in the vehicle may be eligible for a special ignition interlock restricted license if certain criteria are met.
4. After completing a 45 day administrative driver license suspension, the person may apply to MVD for a special ignition interlock restricted driver license.
5. Can be reduced to 9 or 14 days, depending on BAC, if the person installs an IID for 12 months.
6. The court may order an additional jail sentence if the person fails to complete the program.
7. After completing a 90 day administrative driver license suspension, the person may apply to MVD for a special ignition interlock restricted driver license.