

LAW SUMMARY

Office of Legislative Legal Services



COLORADO DRUNK DRIVING LAWS¹

Colorado law prohibits a person from driving a vehicle while under the influence of alcohol or drugs or while the person's ability to drive is impaired by alcohol or drugs.² These offenses are often abbreviated as "DUI" and "DWAI", respectively.

Blood tests and breath tests play a prominent role in the enforcement of drunk driving laws, although DUI or DWAI can be proved by other means. If at the time of the commission of an alleged offense, or within a reasonable time thereafter, a defendant's BAC exceeds 0.05 but is less than 0.08, there is a permissible inference that the defendant's ability to operate a vehicle was impaired by the consumption of alcohol. If at such time the defendant's BAC is 0.08 or more, there is a permissible inference that the defendant was under the influence of alcohol.³

Similarly, if at the time of an offense, or within a reasonable time thereafter, a defendant's blood contains 5 nanograms or more of delta-9 THC (the active substance in marijuana) per milliliter in whole blood, there is a permissible inference that the defendant was under the influence of one or more drugs.⁴

A person may be classified as a persistent drunk driver and subject to greater penalties if the test shows a blood alcohol level of at least 0.15.

¹ This summary contains information commonly requested from the Office of Legislative Legal Services. It does not represent an official legal opinion of the General Assembly or the state of Colorado and does not bind the members of the General Assembly. It is intended to provide a general overview of Colorado law as of the date of its preparation. Any person needing legal advice should consult his or her own lawyer and should not rely on the information in this memorandum.

² "Driving under the influence" means driving a vehicle when a person has consumed alcohol or one or more drugs, or a combination of alcohol and one or more drugs, that affects the person to a degree that he or she is substantially incapable, mentally or physically, to exercise clear judgment, sufficient physical control, or due care in the safe operation of a vehicle. Section [42-4-1301](#) (1) (f), C.R.S. "Driving while ability impaired" is similar, except that a person need only be affected to the slightest degree so that he or she is less able to drive than he or she ordinarily would have been. Section [42-4-1301](#) (1) (g), C.R.S.

³ Section [42-4-1301](#) (6), C.R.S.

⁴ Section [42-4-1301](#) (6), C.R.S.

The law presumes that every driver has consented to take a blood, breath, saliva, or urine test when requested to do so by a law enforcement officer who has probable cause to believe that the person is DUI or DWAI.⁵ Refusal to take the test is both admissible in court and a basis for revocation of a driver's license.

There are both criminal penalties (fines, imprisonment, and required public service) and administrative penalties for drunk driving. Courts impose criminal penalties, and the Colorado Department of Revenue (the Department) imposes the administrative penalties. Administrative penalties include the suspension or revocation of a license due to the commission of certain offenses or the accumulation of sufficient points assessed for violations.

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

The following tables summarize the administrative and criminal penalties⁶ for DUI and DWAI as they appear in sections [42-2-125](#), [42-2-126](#), [42-2-127](#), and [42-4-1307](#), Colorado Revised Statutes:

ADMINISTRATIVE PENALTIES		
Violation	License Suspension	Points
BAC test of at least 0.08	9 months	
2 nd BAC test of at least 0.08	12 months	
3 rd or subsequent BAC test of at least 0.08	24 months	
DWAI	None	8 points
1 st DUI	9 months	12 points

⁵ Section [42-4-1301.1](#), C.R.S.

⁶ Administrative penalties for the same incident are not consecutive. For example, if a person whose license was suspended for a BAC test of at least 0.08 is subsequently convicted of DUI arising out of the same incident, the person's license is only suspended once.

ADMINISTRATIVE PENALTIES		
Violation	License Suspension	Points
2 nd DUI or DWAI	12 months	DWAI 8 points DUI 12 points
3 rd DUI or DWAI	24 months	DWAI 8 points DUI 12 points
1 st Under 21 drinking and driving (BAC of at least 0.02 but less than 0.05)	3 months – 1 st offense 6 months – 2 nd offense 1 year – 3 rd or subsequent offense	4 points

CRIMINAL PENALTIES				
Offense	Classification	Jail/Imprisonment	Fine/Parole	Public Service
1 st DWAI	Misdemeanor	2 - 180 days jail	\$200-\$500 fine	24 hrs - 48 hrs
1 st DUI or DUI per se	Misdemeanor	5 days - 1 year jail	\$600-\$1000 fine	48 hrs - 96 hrs
DWAI or DUI with 1 previous DWAI or DUI	Misdemeanor	10 days - 1 year jail	\$600-\$1500 fine	48 hrs - 120 hrs
DWAI or DUI with 2 previous DWAI or DUI	Misdemeanor	60 days - 1 year jail	\$600-\$1500 fine	48 hrs - 120 hrs
DWAI or DUI with 3 or more previous DWAI or DUI	Class 4 felony	2 - 6 years imprisonment	3 years parole	48 hrs - 120 hrs
1 st Under 21 drinking and driving (BAC for at least 0.02 but less than 0.05)	Class A traffic infraction or Class 2 traffic misdemeanor for subsequent offenses	None; 10 - 90 days jail	\$15 - \$100 fine; \$150 - \$300 fine	Up to 24 hrs.

In some cases, a portion of the minimum mandatory jail sentence can be suspended if the person agrees to undergo an alcohol treatment program.

In addition, persons who violate the state's drunk driving laws may have to pay court costs, penalty surcharges of up to \$500 to help pay for programs to address persistent drunk drivers, surcharges to benefit the crime victim compensation fund, fees to reinstate a driver's license after suspension or revocation, and other fees, charges, and penalties.

Still other consequences may follow. If alcohol or drugs are involved in an accident causing injury or death, the penalties for vehicular assault or vehicular homicide are more stringent. Persons convicted of a third DUI or DWAI offense within seven years also face a mandatory five-year license revocation under the "habitual traffic offender" statute, section [42-2-202](#), Colorado Revised Statutes.

This summary does not include all the details contained in state law and regulations. For more information, contact your local Driver's License Office or visit a public library and ask for [title 42](#) of the Colorado Revised Statutes to review sections [42-2-125](#) to [42-2-208](#) (administrative point system and revocation procedures), [42-4-1301](#) (general DUI statute), and [42-4-1307](#) (penalties for traffic offenses involving alcohol and drugs).

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