

DWI Penalties

Driving while intoxicated (DWI) is the act of operating a vehicle while under the influence of alcohol or other drugs. The operation of a motor vehicle includes being in physical control of the vehicle whether or not the vehicle is moving.

You are in violation of New Mexico's DWI laws when you drive a vehicle with a blood or breath alcohol content of .08% or higher, or by driving while impaired due to the influence of drugs or alcohol.

Any DWI conviction will remain on your driving record for 55 years.

1st Offense: MISDEMEANOR

- Ignition interlock license for 1 year with a device in every vehicle you drive
- Up to 90 days in jail
- Up to a \$500 fine in addition to about \$200 in court costs
- Up to 1 year probation
- Mandatory Penalties: 24 hours community service, DWI School, Victim Impact Panel, and completing a substance abuse screening and follow all recommended treatment

2nd Offense: MISDEAMEANOR

- Ignition interlock license for 2 years with a device in every vehicle you drive
- Up to 364 days in jail of which 96 consecutive hours is mandatory
- Up to a \$1000 fine, \$500 mandatory in addition to about \$250 in court costs
- Up to 5 years' probation
- Mandatory Penalties: 48 hours community service, completing a substance abuse screening and follow all recommended treatment, and completing a 28 day in-patient or a 90 day out-patient substance abuse treatment program, or a drug court program

3rd Offense: MISDEMEANOR

- Ignition interlock license for 3 years with a device in every vehicle you drive
- Up to 364 days in jail of which 30 consecutive days are mandatory
- Up to a \$1000 fine, \$750 mandatory
- Up to 5 years' probation
- Mandatory Penalties: 96 hours community service, completing a substance abuse screening and follow all recommended treatment, and completing a 28 day in-patient or a 90 day out-patient substance abuse treatment program, or a drug court program

4th Offense: 4TH DEGREE FELONY

- Ignition interlock license for 3 years with a device in every vehicle you drive.
- Up to 18 months in prison, 6 months jail mandatory
- Up to a \$5000 fine
- Up to 5 years' probation
- Mandatory Penalties: Completing a substance abuse screening and follow all recommended treatment

5th Offense: 4TH DEGREE FELONY

- Ignition interlock license for 3 years with a device in every vehicle you drive.
- Up to 24 months in prison, 12 months jail mandatory
- Up to \$5000 fine
- Up to 5 years' probation
- Mandatory Penalties: Completing a substance abuse screening and follow all recommended treatment

6th Offense: 3RD DEGREE FELONY

- Ignition interlock license for 3 years with a device in every vehicle you drive.
- Up to 30 months in prison, 18 months jail mandatory
- Up to \$5000 fine
- Up to 5 years' probation
- Mandatory Penalties: Completing a substance abuse screening and follow all recommended treatment

7th Offense: 3RD DEGREE FELONY

- Ignition interlock license for 3 years with a device in every vehicle you drive. Up to 3 years in prison, 2 years prison mandatory
- Up to \$5000 fine
- Up to 5 years' probation
- Mandatory Penalties: Completing a substance abuse screening and follow all recommended treatment

8th Offense: 2ND DEGREE FELONY

- Ignition interlock license for 3 years with a device in every vehicle you drive. Up to 12 years in prison, 10 years prison mandatory
- Up to \$10,000 fine
- Up to 5 years' probation
- Mandatory Penalties: Completing a substance abuse screening and follow all recommended treatment

Beginning with 4th Offense, a person may petition the District Court for restoration of their standard license every 5 years without another conviction

Aggravated DWI is charged where the driver's breath alcohol score is .16 or higher, the driver refused the breath alcohol test, or there was an accident involving alcohol.

- 1st offense: in addition to basic sentence, additional 2 days jail
- 2nd offense: in addition to basic sentence, additional 4 days jail
- 3rd offense: in addition to basic sentence, additional 60 days jail

Driving while revoked for DWI misdemeanor is an arrestable offense, and can include:

- 1-year revocation added to current revocation period
Up to 364 days in jail, 7 days mandatory jail time
Up to \$1,000 fine; \$300 mandatory fine
Other requirements: 30 days immobilization of vehicle driven by offender