

## Consequences of DUI

7/1/21

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<i>Offense</i>	<i>Fine</i>	<i>Possible Jail Sentence</i>	<i>Mandatory Incarceration (no suspension)</i>	<i>License Suspension</i>	<i>VASAP Referral</i>	<i>Ignition Interlock</i>
<b>1ST</b> (Class 1 Misdemeanor)	\$250 to \$2500; (\$250 mandatory) <sup>4</sup>	0 to 12 months	5 days (if BAC $\geq$ .15); 10 days (if BAC > .20)	1 year; (restricted license possible) <sup>1,6,8</sup>	Mandatory	Mandatory; (optional in DUID cases) <sup>7</sup>
<b>2ND within 5 years;</b> (Class 1 misdemeanor)	\$500 to \$2500; (\$500 mandatory; \$1000 mandatory if BAC $\geq$ .15) <sup>3,4</sup>	1 month to 1 year	20 days; 30 days (if BAC $\geq$ .15); 40 days (if BAC > .20)	3 years; (restricted license possible after 1 year) <sup>1,6,8</sup>	Mandatory	Mandatory <sup>7</sup>
<b>2ND within 5 to 10 years;</b> (Class 1 misdemeanor)	\$500 to \$2500; (\$500 mandatory; \$1000 mandatory if BAC $\geq$ .15) <sup>3,4</sup>	1 month to 12 months	10 days; 20 days (if BAC $\geq$ .15); 30 days (if BAC > .20)	3 years; (restricted license possible after 4 months) <sup>1,6,8</sup>	Mandatory	Mandatory <sup>7</sup>
<b>3RD within 5 years;</b> (Class 6 felony)	\$1000 to \$2500; (\$1000 mandatory) <sup>3,4,9,12</sup>	1 year to 5 years in prison or up to 12 months in jail	6 months	Indefinite revocation <sup>5,6</sup>	Not Eligible <sup>5</sup>	N/A (unless license is restored) <sup>5</sup>
<b>3RD within 5 to 10 years;</b> (Class 6 felony)	\$1000 to \$2500; (\$1000 mandatory) <sup>3,4,9,12</sup>	1 year to 5 years in prison or up to 12 months in jail	90 days	Indefinite revocation <sup>5,6</sup>	Not Eligible <sup>5</sup>	N/A (unless license is restored) <sup>5</sup>
<b>4TH or subsequent within 10 years;</b> (Class 6 felony)	\$1000 to \$2500; (\$1000 mandatory) <sup>3,4,9,12</sup>	1 year to 5 years in prison or up to 12 months in jail	1 year	Indefinite revocation <sup>5,6</sup>	Not Eligible <sup>5</sup>	N/A (unless licensed is restored) <sup>5</sup>
<b>Refusal 1ST</b> (civil offense)	N/A	N/A	N/A	1 year; restricted license possible after 30 days <sup>6,10,11</sup>	Mandatory if restricted license issued	Mandatory if restricted license issued
<b>Refusal within 10 years of another qualifying offense;</b> (Class 1 misdemeanor)	\$0 to \$2500	Up to 12 months	N/A	3 years; no restricted license <sup>6,10,11</sup>	N/A	N/A
<b>Persons under age 21 driving after illegally consuming alcohol;</b> (Zero Tolerance) (Class I Misdemeanor)	\$500 to \$2500 (\$500 mandatory minimum) <i>or</i> Community Service (50 hours mandatory minimum)	0 to 12 Months <sup>2</sup>	N/A	One Year with Possible Restricted License <sup>3</sup>	Eligible	N/A

1. **Restricted License Options:** (i) travel to and from his place of employment; (ii) travel to and from an alcohol rehabilitation or safety action program; (iii) travel during the hours of such person's employment if the operation of a motor vehicle is a necessary incident of such employment; (iv) travel to and from school if such person is a student, upon proper written verification to the court that such person is enrolled in a continuing program of education; (v) travel for health care services, including medically necessary transportation of an elderly parent or, as designated by the court, any person residing in the person's household with a serious medical problem upon written verification of need by a licensed health professional; (vi) travel necessary to transport a minor child under the care of such person to and from school, day care, and facilities housing medical service providers; (vii) travel to and from court-ordered visitation with a child of such person; (viii) travel to a screening, evaluation and education program entered pursuant to § 18.2-251 or subsection H of § 18.2-258.1; (ix) travel to and from court appearances in which he is a subpoenaed witness or a party and appointments with his probation officer and to and from any programs required by the court or as a condition of probation; (x) travel to and from a place of religious worship one day per week at a specified time and place; (xi) travel to and from appointments approved by the Division of Child Support Enforcement of the Department of Social Services as a requirement of participation in an administrative or court-ordered intensive case monitoring program for child support for which the participant maintains written proof of the appointment, including written proof of the date and time of the appointment, on his person; (xii) travel to and from jail to serve a sentence when such person has been convicted and sentenced to confinement in jail and pursuant to § 53.1-131.1 the time to be served is on weekends or nonconsecutive days; or (xiii) travel to and from the facility that installed or monitors the ignition interlock in the person's vehicle; or (xiv) travel to and from a job interview for which he maintains on his possession written proof from the prospective employer of the date, time, and location of the job interview or (xv) travel to and from the offices of The Virginia Employment Commission for the purpose of seeking employment. No restricted license issued pursuant to this subsection shall permit any person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). Per § 18.2-271.1, offenders convicted of DUI, or a similar offense, by another state, or the United States, must petition the court where they reside for restricted driving privileges if they intend to drive in the Commonwealth of Virginia.
2. **Persons under age 21 driving after illegally consuming alcohol (Zero Tolerance)** – Persons under age 21 driving with a BAC  $\geq$  .02 will have their license suspended for a period of one year and will be subject either to a fine of not less than \$500 or performance of a minimum of 50 hours of community service. A restricted license may be issued at the discretion of the court if the offender attends ASAP.
3. **Trauma Center Fund** - Persons convicted of a second or subsequent DUI within 10 years of the current offense must pay an additional \$50 fee to the Trauma Center Fund.
4. **Transporting Juveniles** - Persons convicted of DUI while transporting another person(s) 17 years of age or younger shall receive an additional \$500 - \$1000 fine and a mandatory minimum period of confinement for five days.
5. **License Restoration for Indefinite Revocation** - Persons convicted of a third or subsequent DUI offense may petition the court for a restricted license three years after their conviction if they can demonstrate that they are no longer addicted or psychologically dependent on the use of alcohol or other drugs, and no longer pose a transportation safety threat. An evaluation must be conducted by VASAP. After five years, a person may petition for full license restoration with a VASAP evaluation. Ignition Interlock is required for a minimum of six months under either circumstance.
6. **Administrative License Revocation** – Upon arrest for DUI, a driver's license will be immediately suspended for seven days if the driver refuses to take the blood or breath test or the results of the blood or breath test indicate a BAC  $\geq$  .08 ( $\geq$  .02 if the driver is under 21 years of age). If the driver is charged with a second offense, the suspension is for 60 days or until time of trial (whichever time period is less). If the driver is charged with a third or subsequent offense, the suspension is until time of trial. Any additional license suspensions shall run consecutively to this administrative license suspension.
7. **Ignition Interlock** – any court of proper jurisdiction shall, (or may, for DUID cases) as a condition of a restricted license, prohibit an offender from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock system for any period of time not to exceed the period of license suspension and restriction, not less than six consecutive months without alcohol-related violations of the interlock requirements. Adults convicted of first offense DUI with a BAC less than 0.15 may petition the court to grant a restricted driver's license with the sole driving restriction being installation of an ignition interlock. In this case, the ignition interlock must be installed for 12 consecutive months without any ignition interlock alcohol violations. The court shall, for a conviction under §18.2-51.4, a second or subsequent offense of § 18.2-266 or a substantially similar ordinance of any county, city or town, or as a condition of license restoration pursuant to subsection C of § 18.2-271.1 or § 46.2-391, require that such a system be installed on each motor vehicle, as defined in §46.2-100, owned by or registered to the offender, in whole or in part, for such period of time. Any person who enters into such program prior to trial may pre-qualify with the program to have an ignition interlock system installed on any motor vehicle owned or operated by him. However, no ignition interlock company shall install an ignition interlock system on any such vehicle until a court issues to the person a restricted license with the ignition interlock restriction
8. **DUI Restricted Licensee; Operating After Consuming Alcohol** – Persons convicted of DUI who drive in violation of their restricted license conditions or who otherwise drive within their lawful restrictions with a BAC  $\geq$  .02, will be guilty of a Class 1 misdemeanor. Upon conviction, they will have their license administratively suspended by DMV for an additional period of 1 year without the possibility of a restricted license.
9. **Vehicle Seizure and Forfeiture** – The vehicle solely owned and operated by the accused during the commission of a felony violation of 18.2-266 shall be subject to seizure and forfeiture upon conviction of the offense and exhaustion of all appeals. Persons convicted of driving while suspended or revoked, as a consequence of a previous DUI conviction, may have their vehicle impounded or immobilized for up to 30 days upon arrest and for an additional 90 days upon conviction.
10. **Consecutive Suspensions** - In any case where an offender is convicted of both DUI and refusal, the DUI suspension will run consecutively with the refusal suspension.
11. **Refusal Penalties** – When persons are convicted of a DUI and refusal on the same date, the court may grant a restricted driver's license. The offender will still not be able to drive during the 30-day suspension period, but this will prevent the person from going into a revoked status. Once 30 days have passed, the court may be petitioned for a restricted driver's license for the refusal. Any person who is convicted of refusal committed within 10 years of a conviction of certain qualifying offenses may be subject to enhanced penalties. Some qualifying offenses include: 18.2-266 (DUI), 18.2-268.3 (Refusal), 18.2-36.1 (DUI Manslaughter), 18.2-51.4 (DUI Maiming), and subsection (A) of 46.2-341.24 (DUI Commercial Motor Vehicle).
12. **DUI following Felony DUI Conviction** - A person who has been convicted of § 18.2-36.1, 18.2-36.2, 18.2-51.4, 18.2-51.5, or a felony violation of § 18.2-266 shall upon conviction of a subsequent violation of § 18.2-266 be guilty of a Class 6 felony. The punishment of any person convicted of such a subsequent violation of § 18.2-266 shall include a mandatory minimum term of imprisonment of one year and a mandatory minimum fine of \$1,000.