
About D.U.I.

(Driving Under the Influence)

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Introduction

This publication summarizes the penalties for violating several Alaska statutes relating to the operation of motor vehicles and commercial motor vehicles while under the influence of an alcoholic beverage, inhalant, or controlled substance. It is not a complete statement of the law and is not binding legal authority. You should talk to a lawyer for legal advice. The following Alaska statutes are discussed:

DUI	Operating a vehicle, aircraft, or watercraft while under the influence of an alcoholic beverage, inhalant, or controlled substance.	AS 28.35.030
DUI-CMV	Operating a commercial motor vehicle while under the influence of an alcoholic beverage, inhalant, or controlled substance.	AS 28.33.030
Refusal	Refusal to submit to a chemical test.	AS 28.35.032
Refusal-CMV	Implied consent for operators of commercial motor vehicles.	AS 28.33.031
DWLR	Driving while license cancelled, suspended, revoked, or in violation of a limitation.	AS 28.15.291
DWLR - Commercial	Driving a commercial motor vehicle without being lawfully licensed.	AS 28.33.150

DUI and Refusal charges may be either misdemeanors or felonies, depending on the defendant's prior record. By default they are misdemeanors, charged by complaint, and tried before a six-person jury in district court. They can be charged as felonies if:

- The defendant has two or more prior convictions for DUI or Refusal (or a similar crime in another state); **and**
- The prior convictions were all within the past 10 years

Felonies are charged by grand jury indictment and tried by a 12-person jury in superior court.

DUI and Refusal have mandatory minimum penalties that increase based on the number of times the defendant has been convicted of DUI or Refusal. Convictions from other jurisdictions (for example, a DUI from another state) may be counted as prior convictions for sentencing under Alaska state law. Convictions for DUI and Refusal that arise out of one incident are counted as one prior conviction when determining the number of prior convictions.

IMPORTANT NOTE

This publication only covers possible penalties under state law. If you are charged with a misdemeanor DUI or Refusal under a local or municipal ordinance, the penalty ranges and options may be different.

Penalties for Misdemeanor Offenses

For every DUI or Refusal conviction, the court will order a combination of mandatory and discretionary penalties. The jail sentence, the fine, the length of time your license is revoked, and the cost of imprisonment all increase according to the number of prior convictions.

A MISDEMEANOR DUI OR REFUSAL SENTENCE **MUST** INCLUDE:

- A jail or monitoring sentence ranging from a mandatory minimum of 72 hours (first offense) to a mandatory minimum of 360 days (sixth or subsequent non-felony offense). The maximum jail term for a misdemeanor is one year. For **first DUI or first Refusal**, depending on when your offense occurred, you may either be required to serve by electronic monitoring or the DOC probation office staff will decide how you serve your time (for example, at a community residential center or other appropriate place). Your judgment will tell you how to report after sentencing.
- A fine ranging from a mandatory minimum of \$1,500 (first offense) to a mandatory minimum of \$7,000 (sixth or subsequent offense). The maximum fine for a misdemeanor is \$25,000.
- Revocation of your driver's license or ability to get a license for 90 days or more, unless the offense occurred in a watercraft (for some offenses, a limited license may be available during part of the revocation if certain criteria are met).
- For violations involving alcohol, you must use an ignition interlock device (IID) after you get back the privilege to drive (except in certain communities not on the state road system). The length of time you will need an IID depends on the number of prior convictions.
- Disqualification (prohibition from operating a commercial vehicle, no limited license allowed) if you committed the offense in a commercial vehicle.
- You must get a drug and alcohol evaluation and complete any treatment program required by the evaluating agency.
- Paying certain costs and surcharges, including the cost of any emergency response services (for example, the ambulance) if there was an accident related to the offense.
- Paying the cost of imprisonment. This cost will vary depending on when the offense happened, how many prior DUI or Refusal convictions you have, and whether you serve your time on electronic monitoring or in a jail or community residential center.

A MISDEMEANOR SENTENCE **MAY** ALSO INCLUDE:

- Paying restitution to any victims (for example, reimbursement to them for any injuries or property damage you caused).
- An order to complete an approved driver improvement course.
- An order to perform community work service.
- A term of probation and requirement to comply with probation conditions.
- An order to forfeit your ownership interest in the vehicle, aircraft, or watercraft used in the offense, or to impound the vehicle for a certain length of time
- An order to take a prescription medication that discourages the consumption of alcohol.

For DWLR, the minimum jail term is 10 days with 10 days suspended if the reason your license was revoked was because you were convicted of a DUI or Refusal. If you have a prior DWLR where the revocation was for DUI or Refusal, the minimum is 10 days with none suspended. DWLR is an infraction (minor offense with no jail time) if the revocation was for anything other than a DUI or Refusal.

Penalties for Felony Offenses

Depending on when the prior offenses occurred, a third or subsequent DUI or Refusal may be a Class C felony, with a higher mandatory minimum jail sentence, fine, and other penalties.

A FELONY SENTENCE **MUST** INCLUDE:

- A jail sentence ranging from a mandatory minimum of 120 days (third offense) to a mandatory minimum of 360 days (fifth or subsequent offense). The maximum jail term is five years.
- A mandatory minimum fine of \$10,000. The maximum fine is \$50,000.
- Your driver's license is permanently revoked and you lose the privilege to drive or to get a license. If certain conditions are met (for example, you successfully complete therapeutic court), you may be able to apply to get your license back. You should speak with a lawyer about your options since the qualification criteria are specific to your individual situation.
- Your ownership interest in the vehicle, watercraft, or aircraft used in the incident is forfeit.
- Revocation of registrations of all vehicles in your name.
- For violations involving alcohol, you must use an ignition interlock device (IID) for a mandatory minimum of 60 months **if** you get back your privilege to drive (there is an exception in certain communities not on the state road system).
- You are disqualified for life from operating commercial vehicles if the incident was committed in a commercial vehicle.
- You must get a drug and alcohol evaluation and complete any treatment programs required by the evaluating agency.
- Paying certain costs and surcharges, including the cost of any emergency response services (for example, the ambulance) if there was an accident related to the offense.

A FELONY SENTENCE **MAY** ALSO INCLUDE:

- Paying restitution to any victims (for example, reimbursement to them for any injuries or property damage you caused).
- An order to perform community work service.
- An order to take prescription medications that discourage the consumption of alcohol.
- A term of probation and a requirement to comply with probation conditions.

Administrative License Revocation

Defendants whose licenses are revoked by the court face additional administrative license revocation by the Division of Motor Vehicles (DMV). The court revocation may be concurrent with (at the same time as) or consecutive to (in addition to) the DMV revocation.

If a driver fails a chemical test (has a test result of 0.08% or greater, or 0.04% or greater while operating a commercial vehicle) or refuses to take a chemical test, the law enforcement officer will seize the driver's license and give the driver a "Notice and Order of Revocation." That notice tells the driver that their driver's license or privilege to drive will be revoked by DMV on the eighth day following the arrest. The notice serves as a temporary license for seven days and describes how to request an administrative review of the revocation. If the person was operating a commercial motor vehicle, they will be ordered out of service for 24 hours.

You can request an administrative review in writing within seven days after you receive the notice. Use the DMV form at <https://dmv.alaska.gov/media/scdf4rcj/447.pdf>. Mail the form to DMV at Division of Motor Vehicles, ATTN: Anchorage Driver Services, 4001 Ingra St., Suite 101, Anchorage, AK 99503. When your request is received, DMV will issue a temporary license, which is valid until the date of the administrative hearing. If you are dissatisfied with the result of the DMV hearing, you can file an appeal in superior court. Find more information on filing an appeal in form [AP-220](#), available online or in paper copy from the court clerk.

Overview of Mandatory Minimum Penalties

MINIMUM PENALTY	MISDEMEANOR	FELONY***
FIRST OFFENSE		
Jail/Electronic Monitoring Time	72 consecutive hours	
Fine	\$1,500	
Ignition Interlock Device*	6 months	
Cost of Imprisonment**	Offense before 7/9/19: \$66 for 1st 3 days plus \$14 for each additional day Offense on or after 7/9/19: \$330 (cost may be reduced if served on EM)	
License Revocation	90 days	
SECOND OFFENSE		
Jail Time	20 days	
Fine	\$3,000	
Ignition Interlock Device*	12 months	
Cost of Imprisonment**	\$1,467	
License Revocation	1 year	
THIRD OFFENSE		
Jail Time	60 days	120 days
Fine	\$4,000	\$10,000
Ignition Interlock Device*	18 months	60 months
Cost of Imprisonment**	\$2,000	Not applicable
License Revocation	3 years	For life or min. 10 years
FOURTH OFFENSE		
Jail Time	120 days	240 days
Fine	\$5,000	\$10,000
Ignition Interlock Device*	24 months	60 months
Cost of Imprisonment**	\$2,000	Not applicable
License Revocation	5 years	For life or min. 10 years
FIFTH OFFENSE		
Jail Time	240 days	360 days
Fine	\$6,000	\$10,000
Ignition Interlock Device*	30 months	60 months
Cost of Imprisonment**	\$2,000	Not applicable
License Revocation	5 years	For life
SIXTH OFFENSE		
Jail Time	360 days	360 days
Fine	\$7,000	\$10,000
Ignition Interlock Device*	36 months	60 months
Cost of Imprisonment**	\$2,000	Not applicable
License Revocation	5 years	For life

* IID only required for violations involving alcohol.

** This amount is subject to change by regulation. Defendant must pay other types of surcharges too.

*** Third or subsequent DUI or Refusal convictions may be misdemeanors or felonies, depending on the date of the prior convictions. Persons with less than three total felony DUI/Refusals may be eligible for license reinstatement after 10 years without additional driving-related crimes.

Limited License Privileges

The court may grant limited license privileges for a **misdemeanor DUI** defendant to drive for employment purposes if the court determines that the defendant may drive without excessive risk or danger to the public. The availability and terms of a limited license will vary depending on the defendant's criminal record, driving record, and treatment history.

The court may also grant limited license privileges to a **felony DUI** defendant if the court determines that the defendant successfully completed Wellness or Therapeutic Court (or the equivalent in an area where those programs are not available). Wellness or Therapeutic Court is available in Anchorage, Bethel, Fairbanks, Juneau, Kenai, Palmer, and Sitka. Use court form [CR-742](#) for a verification of eligibility. In order to use this form, you must have successfully completed Wellness or Therapeutic Court with the Alaska Court System. If you are in an area where Wellness or Therapeutic Court is not available, use court form [CR-741](#) instead.

If your license was also suspended by DMV, you must also get a limited license from DMV. To make this request, pay a non-refundable \$100 fee and complete the application form. It is available at DMV offices and online at <https://dmv.alaska.gov/media/sgiebriz/404e.pdf>. The DMV requires Financial Responsibility Filing (SR-22 insurance filing form), installation of an approved ignition interlock device, and verification that you met the alcohol education and rehabilitation treatment program requirements. If DMV grants a limited license, you may submit the same limited license application form to the court.

Reinstatement of Driver's License

For any period of revocation, the original license you surrendered will not be returned to you. If you want your license back, you must apply for a new one at DMV. Before DMV will issue a new license, you must meet their requirements. For more information, see <https://dmv.alaska.gov/driver-services-adjudication/reinstatement-your-driving-privileges/>. If you were granted a limited license, apply for a new license when the limitation period ends.

Commercial DUI (DUI-CMV)

The crime of operating a commercial motor vehicle under the influence (DUI-CMV) is committed when a defendant who is under the influence of alcohol, an inhalant, or any controlled substance operates a commercial motor vehicle, or when a defendant who has a blood alcohol level of 0.04% or greater operates a commercial motor vehicle. "Commercial motor vehicle" is defined in AS 28.90.990. A defendant who operates a commercial motor vehicle under the influence of alcohol, inhalants, or drugs may also be charged with non-commercial DUI and Refusal in connection with the same incident.

A DUI-CMV conviction will result in penalties identical to DUI **plus disqualification from driving a commercial motor vehicle** for at least one year (first offense) or for life (subsequent offenses).

Disqualification is required when non-commercial DUI and Refusal offenses are committed in commercial vehicles, and for other offenses (such as leaving the scene, failing to file an accident report, felonies facilitated by the use of a commercial vehicle, driving in violation of service orders, and serious traffic violations—see AS 28.33.140).

Penalties for DWLR

Driving while a license is revoked, cancelled, or suspended because of a DUI or Refusal is a Class A misdemeanor, with a minimum of 10 days with 10 days suspended if the revocation was for the first DWLR, or 10 days with none suspended if it is the second or subsequent DWLR. The maximum fine is \$25,000. If your license was revoked, cancelled, or suspended for another reason, then DWLR is an infraction (minor offense). There is no jail time, however, you will have to pay a fine and surcharge.

In addition, you are convicted of driving during a period of license revocation, DMV will suspend the registration of every vehicle registered in your name until you provide proof of financial responsibility for each vehicle.

Penalties for driving a commercial motor vehicle without being lawfully licensed

Driving a commercial motor vehicle during a period of license revocation, driving in violation of a limited license, and driving during a period of disqualification (see AS 28.33.150) are Class A misdemeanors with a maximum penalty of up to one year in jail and a \$25,000 fine. The court must order the following **minimum** penalties upon conviction:

If not previously convicted of (a) driving a commercial vehicle without being lawfully licensed, (b) driving while license revoked/suspended, or (c) driving in violation of a limited license:	<ul style="list-style-type: none">• 20 days in jail (10 suspended)• 80 hours community work service• Additional 90-day license revocation
If previously convicted during the preceding 10 years of (a) driving a commercial motor vehicle without being lawfully licensed, (b) driving while license revoked/suspended, or (c) driving in violation of a limited license:	<ul style="list-style-type: none">• 60 days in jail• \$1000 fine• Additional 90-day license revocation

Other Consequences

Other possible consequences of a conviction for DUI or Refusal include:

- Federal Aviation Administration regulations require all FAA-licensed pilots to report "motor vehicle actions" to the FAA within 60 days. Motor vehicle actions such as DUI convictions and license revocations may cause suspension or revocation of a pilot's license.
- DMV may classify a driver as a "habitual user of alcohol" and refuse to license the driver, even after the revocation period has ended, until the driver provides proof that the substance abuse problem has been under control for at least one year.
- Motor vehicle insurance rates may increase.
- Information about convictions may be requested by employers or on job applications. You may be ineligible for certain kinds of jobs.
- Convictions may affect your ability to obtain or renew a pilot's license or another occupational license.
- Criminal convictions may affect eligibility for military service or U.S. citizenship.
- Criminal convictions may prevent entry into Canada or other foreign countries.

These are not all of the possible collateral consequences of a conviction. The court cannot advise you of all possible consequences.