

## Driving Under the Influence of Alcohol and Drugs

When operating a motor vehicle, boat or water craft in Virginia, you are legally considered driving or operating under the influence (DUI) if your blood alcohol content (BAC) is 0.08 percent or higher. You may be considered under the influence with a lower BAC if your ability to operate a motor vehicle, boat or water craft is impaired. If your driving is affected because you are under the influence of any drug, you may face the same penalties as driving under the influence of alcohol.

If you are involved in a motor vehicle crash and a law enforcement officer has probable cause, you can be arrested for DUI within three hours of the crash without a warrant and at any location.

If you are arrested for DUI a third or subsequent time within a five-year period, you will not be granted bail while you wait to go to trial.

All DUI laws apply to mopeds operated on public highways.

## Open Container

You may be charged with drinking while operating a motor vehicle if you are stopped by law enforcement and you have an open container of alcohol in the passenger area, the contents of which have been partially removed, and you exhibit signs that you have been drinking. The passenger area refers to the area designed to seat the driver and passengers and any area within the driver's reach, including an unlocked glove compartment.

## Administrative License Suspension (ALS)

For a first DUI offense and/or breath test refusal, your driver's license will be automatically suspended for seven days if your BAC is 0.08 percent or higher. For a second DUI offense and/or breath test refusal, your license will be automatically suspended for 60 days

or until you go to trial, whichever comes first. For a third DUI offense and/or breath test refusal, your license will be automatically suspended until you go to trial. Conviction of a DUI offense will result in suspension of your driver's license and other penalties in addition to the administrative suspension.

## Breath Test Refusal

You do not have the option of requesting a blood test instead of a breath test for an alcohol-related offense. If you have had a prior DUI conviction or conviction of breath test refusal, you will be charged with a Class 2 misdemeanor for refusing to take a blood alcohol test. If you have had two DUI convictions or conviction of breath test refusal within a ten-year period, you will be charged with a Class 1 misdemeanor. Both offenses carry a three-year license suspension.

If you are convicted of a breath test refusal, the court will suspend your driving privilege for one year. If you are also convicted of DUI, the DUI driver's license revocation period will run consecutively with the breath test refusal revocation. You are not eligible for a restricted driver's license during the suspension for a breath test refusal.

## Penalties

### Conviction for DUI first offense

- ▶ Mandatory, minimum \$250 fine
- ▶ Driver's license revocation for one year

### Conviction for DUI second offense

- ▶ Mandatory, minimum \$500 fine
- ▶ Driver's license revocation for three years
- ▶ Possible jail term up to one year

### Conviction for DUI second offense within ten years of prior offense carries the following additional penalty

- ▶ Mandatory, minimum ten-day jail term

### Conviction for DUI second offense within five years of prior offense carries the following additional penalty

- ▶ Mandatory, minimum 20-day jail term

### Three DUI convictions within a ten-year period

- ▶ Mandatory, indefinite driver's license revocation
- ▶ If your driving privilege is revoked for a first or second DUI offense conviction and you receive another DUI, the license revocation period will run consecutively with the existing revocation period.

### Conviction for DUI third offense

- ▶ Mandatory, minimum \$1,000 fine
- ▶ Mandatory indefinite driver's license revocation
- ▶ Prosecution as a Class 6 felony

### Conviction for DUI third offense within five years carries the following additional penalty

- ▶ Mandatory, minimum six-month jail term

### Conviction for DUI third offense within ten years carries the following additional penalty

- ▶ Mandatory, minimum 90-day jail term
- ▶ Permanent forfeiture of your vehicle (if you are the sole owner)

### Conviction for DUI fourth or subsequent offense

- ▶ Mandatory, minimum one-year jail term

### BAC of 0.15% and not higher than 0.20% at the time of arrest

- ▶ First offense carries a mandatory, minimum five-day jail term in addition to all other penalties
- ▶ Second offense within ten years carries a mandatory, minimum ten-day jail term in addition to all other penalties

### BAC of 0.20% or higher at the time of arrest

- ▶ First offense carries a mandatory, minimum ten-day jail term in addition to all other penalties

- ▶ Second offense within ten years carries a mandatory, minimum 20-day jail term in addition to all other penalties

## Driving on a Suspended License

A third conviction within ten years for driving on a license suspended because of a DUI-related offense is a class 6 felony and carries a mandatory term of one to five years or a fine of \$2,500 or both.

## Criminal Record

Any DUI offense will be reported to the Central Criminal Records Exchange by law enforcement at the time of your arrest. In other words, you could end up with a criminal record because of a DUI arrest.

## Zero Tolerance

If you are under age 21, you cannot purchase, possess or consume alcohol. If law enforcement stops you for illegal consumption of alcohol, you are subject to administrative license suspension (ALS). If you are convicted of driving after illegally consuming alcohol and your BAC was at least 0.02 percent and less than 0.08 percent, you can be fined up to \$500, have your driver's license suspended for six months, and face a possible jail term.

Regardless of age, if driving on a DUI suspended or restricted license, you may be charged with DUI if you drive with a BAC of 0.02 percent or higher.

## Equal Penalties for Under Age 21

Persons under age 21 who drive while under the influence of drugs or with a blood alcohol content of 0.08 percent or higher are subject to the same penalties as persons age 21 or older.

Virginia is **TOUGH** on drunk and drugged drivers

### Transporting Children While Under the Influence

Conviction of any DUI offense involving a juvenile passenger (age 17 or younger) in the vehicle at the time of the offense carries an additional mandatory five-day jail term in addition to all other fines and jail sentences. You may also be assessed an additional fine of at least \$500 and up to \$1,000. A second DUI offense with a juvenile (age 17 or younger) in the vehicle carries an additional 80-hour community service requirement in addition to all other fines and jail sentences.

### Ignition Interlock Device

If you are convicted of the following, the court will require that you have an ignition interlock device installed on every vehicle you own, co-own or operate as a condition of restricted driving privileges or full restoration of driving privileges:

- ▶ Convicted of a DUI second offense within ten years, or
- ▶ Convicted of a DUI third or subsequent offense within ten years, or
- ▶ Convicted of a first DUI offense and your BAC was 0.15 percent or higher

In the following cases, DMV will require you to have an ignition interlock device installed as a condition of restricted driving privileges or full restoration of driving privileges, even if the court does not require it:

- ▶ Convicted of a DUI second offense within five years, or
- ▶ Convicted of a DUI third or subsequent offense within ten years, or
- ▶ Convicted of three separate DUI offenses within ten years

Convictions for a first offense violation of the ignition interlock restriction or other restricted license provisions will result in a DMV revocation for one year. Two or more convictions of violating restricted privileges will result in a three-year revocation.

### Alcohol Education Treatment Program

If you are convicted of DUI, you must report to an Alcohol Safety Action Program (ASAP) in your area for screening and probationary oversight to have your license reinstated. This process will determine the intervention services that are most appropriate. At your own expense, you may be assigned to an

education program and/or referred to treatment. You will spend a minimum of 20 hours during a 10-week period in ASAP classes if you are assigned to education. Those convicted of a first offense will be on probation for a year. For a second or subsequent offense, three years probation is required. If ignition interlock is required, Virginia ASAP will monitor your compliance with the court's requirements.

### Vehicle Impoundment

The vehicle you are driving will be immediately impounded or immobilized for 90 days if you are caught driving after your license has been suspended for an alcohol-related offense. The court can impound the vehicle for an additional 90 days following conviction. The owner of the vehicle impounded (other than the driver) may petition the court for release of the vehicle. Anyone who knowingly permits operation of their motor vehicle by a person known to have a revoked or suspended license for an alcohol-related offense can be charged with a Class 1 misdemeanor.

### Restitution

Depending on local ordinances, you may be liable (for up to \$1,000) for the cost of law enforcement, emergency medical services, fire fighting and rescue personnel who respond to a crash or incident resulting from your DUI violation.

### Penalties for Providing Alcoholic Beverages to Persons Under Age 21

If you provide or sell alcoholic beverages to a person under age 21, intoxicated or ordered by a court to refrain from consuming alcohol, you are subject to a fine up to \$2,500, twelve months in jail and mandatory suspension of your driver's license for up to one year. These same penalties apply if you assist someone under age 21 in obtaining or purchasing alcohol.

### Penalties for Persons Under Age 21 Purchasing, Possessing or Consuming Alcohol

If you're under age 21 and you purchase, possess and/or consume alcohol, you face a fine ranging from \$500 to \$2,500, up to 12 months in jail and mandatory suspension of your driver's license for at least six months but not more than one year.

### Penalties for Possessing Alcoholic Beverages at Public Schools

Drinking or possessing alcoholic beverages on public school grounds can result in a fine of up to \$1,000 and up to six months in jail regardless of your age.

### Misrepresentation of Age

If you are under age 21 and you use or attempt to use an altered, fictitious or simulated document or student ID to establish a false age in an attempt to consume or purchase alcoholic beverages, you will:

- ▶ be fined at least \$500; or, be required to perform at least 50 hours of community service
- ▶ face up to 12 months in jail; and,
- ▶ face mandatory suspension of your driver's license for at least six months but not more than one year.

### Boating and Hunting Under the Influence

It's unlawful to operate a boat or watercraft while under the influence of alcohol and/or drugs. It is also unlawful to hunt wildlife using a firearm, bow and arrow, or crossbow while under the influence of alcohol and/or drugs.

**This guide is an informational tool. It does not supercede the Code of Virginia, Virginia Administrative Code or any other statute. This information was compiled and published by the Virginia Department of Motor Vehicles.**

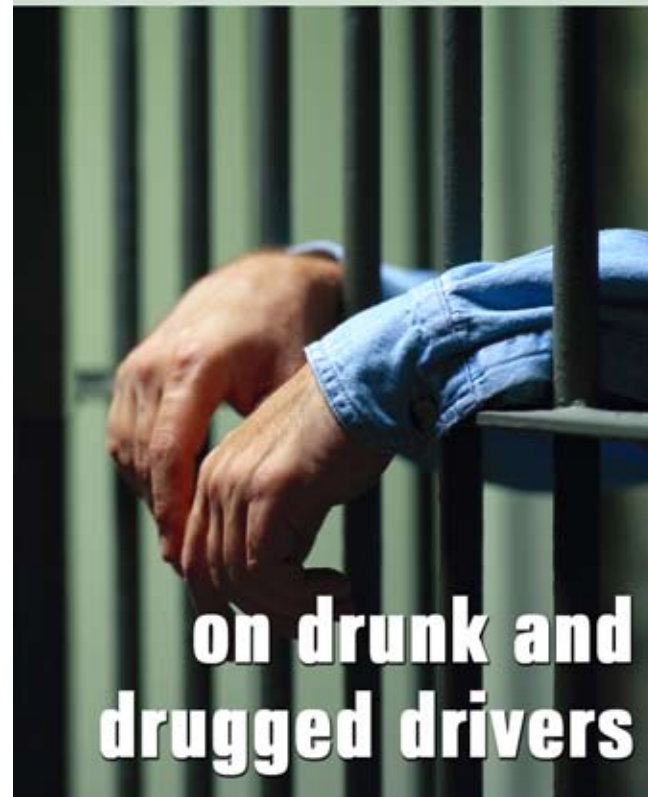


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# Virginia is TOUGH



on drunk and drugged drivers



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