

IOWA'S OWI LAW



Operating While Intoxicated or Drugged



Effective July 1, 2003

It is unlawful to operate a motor vehicle in Iowa in any of the following conditions:

1. While under the influence of an alcoholic beverage or other drug combination of such substances.
2. While having an alcohol concentration of .08 or more.
3. While having any amount of a controlled substance in one's body.

Iowa's implied consent law means that any person who operates a motor vehicle in the state agrees to have a blood, breath, and/or urine test performed to determine alcohol level or presence of drugs whenever a peace officer has reasonable grounds to believe the person is operating under the influence.

CRIMINAL PENALTIES FOR OWI

First Offense A serious misdemeanor, punishable by up to one year in jail and a fine of \$1,000, or both. The minimum jail time is 48 hours. The judge may waive up to \$500 of the fine if the crime did not result in personal injury or property damage. As an alternative to a portion or all of the fine, the court may order the person to perform unpaid community service. These offenders also must be ordered to complete a substance abuse evaluation and treatment, a course for drinking drivers, and in some cases, a reality education substance abuse prevention program.

Second Offense An aggravated misdemeanor, punishable by up to two years in prison. A minimum of seven days in jail must be served. A fine of from \$1,500 to \$5,000 must be paid.

Third or Subsequent Offense A class "D" felony, punishable by imprisonment up to five years, and a fine of from \$2,500 to \$7,500. A minimum of 30 days in jail must be served.

NOTE: OWI convictions and deferred judgments that occurred anywhere in the United States within the preceding twelve years will count in determining whether the offense charged is a second or third offense. Also, deferred judgments, deferred sentences or probation without service of the mandatory minimum period of incarceration may be granted in an OWI case only if the defendant:

- has never been previously convicted or received a deferred judgment for OWI anywhere in the United States
- at the time of arrest, agreed to take a chemical test, and had a test result no higher than .15
- did not cause injury to any other person by driving while intoxicated

All persons convicted must undergo a substance abuse evaluation (at the offender's expense) prior to sentencing, and the court must order the defendant to follow recommendations of the evaluation.

Victims may receive restitution for all damages caused by a defendant. Public agencies may receive up to \$500 for costs incurred as a result of a defendant's crime.

CRIMINAL PENALTIES FOR OWI CAUSING DEATH OR SERIOUS INJURY

OWI which causes the death of another person is a class "B" felony, punishable by up to 25 years in prison. This sentence cannot be suspended, and a defendant cannot be released on bail before sentencing, or while on appeal. There is no fine, but victim restitution may be ordered. OWI which causes a serious injury to another person is a class "D" felony, punishable by up to 5 years in prison. This sentence cannot be suspended. A fine of from \$500 to \$7,500 may be imposed, and victim restitution may be ordered.

DRIVERS' LICENSE REVOCATIONS

Administrative - Test Failure:

***First Offense** When a chemical test indicates an alcohol level of .08 or more or the presence of a controlled substance, and the person has had no OWI-related revocations in the previous 12 years 180 days

May apply for a temporary restricted license. If an accident occurred or if the BAC level was .15 or greater you must wait 30 days. You must install an ignition interlock device if the BAC level is .10 or greater or if an accident occurred.

Second or more One or more revocations in the previous 12 years 1 year
Not eligible for temporary restricted license for one year.

Administrative - Test Refusal (includes refusal of a urine or blood test if the officer requests such a test after a person has submitted to a breath test):
First Offense When a chemical test is refused, and the person has had no
OWI related revocations in the previous 12 years 1 year
May apply for a temporary restricted license after the first 90 days if an ignition interlock device is installed on all vehicles and a plea of guilty is entered.

Second or more One or more revocations in the previous 12 years 2 years
May apply for a temporary restricted license after one year, if ignition interlock device is installed on all vehicles.

Administrative or Court Ordered Revocation:

If a driver is under the age of 18 and his or her license or operating privileges are revoked administratively or by a court order, the revocation continues until the revocation expires or until the person reaches 18, whichever is later.

Upon Conviction - If Not Otherwise Revoked Administratively:

***First Offense** Upon conviction, if no convictions or revocations in the
preceding 12 years 180 days
May apply for a temporary restricted license. If an accident occurred or if the BAC level was .15 or greater you must wait 30 days. You must install an ignition interlock device if the BAC level is .10 or greater or if an accident occurred. You must wait 90 days if you refused to test.

Second Offense One or more revocations in the preceding 12 years 2 years
May apply for a temporary restricted license after one year, if ignition interlock device is installed on all vehicles.

***Deferred** If license is not otherwise revoked and court defers judgment 30-90 days
May apply for a temporary restricted license. If an accident occurred or if the BAC level was .15 or greater you must wait 30 days. You must install an ignition interlock device if the BAC level is .10 or greater or if an accident occurred. You must wait 90 days if you refused to test.
** If under 21, ineligible for temporary restricted license until 60 days have passed.*

Court Ordered - In Addition to Other Administrative or Court-Ordered Revocation:

Third Offense 6 years
May apply for a temporary restricted license after one year if ignition interlock device is installed on all vehicles.

Any level of offense involving personal injury caused by OWI 1 year in addition to any other revocation
May apply for a temporary restricted license when otherwise permitted by other revocation; ignition interlock device must be installed on all vehicles.

Any level of offense involving a death caused by OWI 6 years
May apply for a temporary restricted license after two years if ignition interlock device is installed on all vehicles.

.02/“ZERO TOLERANCE” ADMINISTRATIVE LICENSE REVOCATIONS FOR DRIVERS UNDER 21

The license of a person under 21 who submits to a chemical test which indicates an alcohol level of .02 or more but less than .08 will be revoked for 60 days on a first violation and 90 days on subsequent violations. If such a person is suspected of operating with an alcohol level of .02 or more and refuses chemical testing, the license revocation will be one year on a first violation and two years on a second or subsequent violation. These revocations, .02/“zero tolerance” revocations, are administrative and are not dependent upon criminal charges being filed. If a license is revoked for a .02/“zero tolerance” violation, the driver is not eligible for a temporary restricted license at any time during the revocation.

DRIVING WHILE REVOKED

A person who drives while their license is revoked under the OWI chapter (whether the revocation is administrative or court ordered, and whether for an OWI or for a .02 violation) commits a serious misdemeanor and must pay a fine of \$1,000. Law enforcement officers may impound vehicles if the driver's license is revoked for an OWI. If such a driver is convicted of second or subsequent offense driving with a revoked license, the vehicle must be seized and forfeited to the state.

The owner of a vehicle who lends the vehicle to a person whose license is revoked for an OWI commits a simple misdemeanor and is jointly liable for any damages the driver causes, if the owner knew, should have known, or gave consent to the operation of the vehicle by a driver with a revoked license.

VEHICLE IMPOUNDMENT/IMMOBILIZATION

A person arrested for second or subsequent OWI, or for driving while a license is revoked for an OWI may have the motor vehicle seized and impounded immediately upon arrest. The impoundment (or immobilization) continues for at least 180 days, or until the driver's license revocation is completed, whichever period is longer. If the vehicle is not impounded at the time of arrest, it must be impounded or immobilized upon conviction for second or subsequent offense OWI. If a vehicle is operated in violation of an order of impoundment or immobilization, it shall be seized and forfeited to the state, and operation of the vehicle is a serious misdemeanor.

REINSTATING A DRIVER'S LICENSE

If a motor vehicle license or non-resident operating privilege has been revoked for any OWI offense under chapter 321J (whether as a result of a court order or administrative action), the license or privilege may not be reinstated until the person:

- pays a \$200 civil penalty
- presents proof of completion of a course for drinking drivers, and
- presents proof of completion of a substance abuse evaluation and treatment or rehabilitation services
- comply with financial responsibility law if applicable

One Drink Can Be Too Many For Safe Driving

Distributed by the
Iowa Department of Transportation

Reviewed by the Iowa Department of Transportation and the Iowa State Patrol.
For additional information, see CODE OF IOWA, Chapter 321J, and Chapter 707.