

DUI Laws and Punishment

Most DUI cases involve two criminal charges: (1) DUI (driving under the influence of alcohol and/or drugs in violation of Vehicle Code § 23152(a)), and (2) driving while having a blood-alcohol level of at least .08%, in violation of Vehicle Code § 23152(b). Although you can be convicted of both crimes, you can only receive one punishment – and the penalties are the same.

Please refer to the charts below for information concerning information on potential jail time, fines, driver's license suspensions, treatment programs and vehicle impoundment for 1st, 2nd, 3rd, and 4th offense DUIs. We make every effort to ensure that the information below is accurate, but the information below is subject to change at any time and is not intended to be legal advice or a guarantee of what will happen in your case.

It is possible to succeed both in court and at the DMV hearing (see **The DMV DUI Suspended License Hearing Process (← Make this a link)** page on this site for more information) but these processes are extremely complex. The cost of losing is high as shown below. A conviction is not automatic. It is possible to fight and win a drunk driving case with the help of an experienced legal counsel.

As your attorney, I can review the case for defects, suppress evidence, compel discovery of such things as calibration and maintenance records for the breath machine, have blood samples independently analyzed, negotiate for a lesser charge or reduced sentence, obtain expert witnesses for trial, contest the administrative license suspension and generally help you maximize your chances of avoiding a conviction.

I have defended hundreds of DUI cases to positive results!

California DUI Penalties Chart

1st Offense – No Probation	
Jail	Minimum of 96 hours, 48 of which must be served continuously, maximum of 6 months
Fine	Minimum of \$390.00 (plus mandatory penalty assessments) to maximum of \$1,000.00 (plus mandatory penalty assessments)
License Suspension	Suspended for 6 months
Treatment Program	None required; however, DMV will not reinstate license until proof of completion of a treatment program
Vehicle impoundment	Vehicle driven in the offense may be impounded for up to 6 mos. if person convicted is registered owner of said vehicle
1st Offense – Probation Granted - Option A	
Jail	Minimum of 48 hours, 48 of which must be served continuously, maximum of 6 months
Fine	Minimum of \$390.00 (plus mandatory penalty assessments) to maximum of \$1,000.00 (plus mandatory penalty assessments)
License Suspension	Suspended for 6 months; but after serving a 30 day “hard” suspension, you can apply to the DMV for a restricted license that permits you to drive to, from and during work and/or to and from the DUI education program. You must show proof of insurance to the DMV, pay a license reissue fee and show that you have enrolled in or completed a DUI education program to be eligible for a restricted license.
Treatment Program	Mandatory attendance at alcohol/drug treatment program. If blood alcohol count (BAC) was less than 0.20 percent, by weight, participation in the program must be at least 3 months or longer and if BAC was 0.20 or more percent, or if the test was refused, participation in the program must be at least 6 months or longer.
Vehicle	Vehicle driven in the offense may be impounded for up to 6 mos. if person convicted is registered owner of said vehicle

impoundment	
1st Offense – Probation Granted - Option B	
This option is not available if you willfully refused or failed to complete a chemical test (VEHICLE CODE §23577(a)(1)).	
Jail	Minimum of 48 hours, 48 of which must be served continuously, maximum of 6 months
Fine	Minimum of \$390.00 (plus mandatory penalty assessments) to maximum of \$1,000.00 (plus mandatory penalty assessments)
License Suspension	Suspended for 6 months; but after serving a 30 day “hard” suspension, you can apply to the DMV for a restricted license that permits you to drive to, from and during work and/or to and from the DUI education program. You must show proof of insurance to the DMV, pay a license reissue fee and show that you have enrolled in or completed a DUI education program to be eligible for a restricted license.
Treatment Program	Mandatory attendance at alcohol/drug treatment program. If blood alcohol count (BAC) was less than 0.20 percent, by weight, participation in the program must be at least 3 months or longer and if BAC was 0.20 or more percent, or if the test was refused, participation in the program must be at least 6 months or longer.
Vehicle Impound	Vehicle driven in the offense may be impounded for up to 6 mos. if person convicted is registered owner of said vehicle

2nd Offense – No Probation	
Jail	Minimum of 90 days, maximum of one year.
Fine	Minimum of \$390.00 (plus mandatory penalty assessments) to maximum of \$1,000.00 (plus mandatory penalty assessments).
License Suspension	Suspended for 2 years
Treatment Program	None required; however, DMV will not reinstate license until proof of completion of a treatment program
Vehicle impoundment	Vehicle driven in the offense may be impounded for up to 12 mos. if person convicted is registered owner of said vehicle
2nd Offense – Probation Granted - Option A	
Jail	Minimum of 10 days, maximum of one year
Fine	Minimum of \$390.00 (plus mandatory penalty assessments) to maximum of \$1,000.00 (plus mandatory penalty assessments)
License Suspension	Suspended for 2 years
Treatment Program	None required; however, DMV will not reinstate license until proof of completion of a treatment program
Vehicle impoundment	Vehicle driven in the offense may be impounded for up to 12 mos. if person convicted is registered owner of said vehicle
2nd Offense – Probation Granted - Option B	
Jail	Minimum of 96 hours to be served in two increments of 48 continuous hours to one year in jail. The two increments may be served non-consecutively.
Fine	Minimum of \$390.00 (plus mandatory penalty assessments) to maximum of \$1,000.00 (plus mandatory penalty assessments).
License Suspension	You may be able to obtain a license with verification that proof of insurance has been provided to the DMV by an insurance company, the license is restricted to travel to and from work and within the scope of employment or attendance of alcohol or drug program for duration of program.
Treatment Program	Your participation would be required in either an 18-month or a 30-month treatment program approved pursuant to chapter 9, Part 2, of Division 10.5 of the Health and Safety Code. No credit may be given for any program activities completed prior to the date of the offense charged.
Vehicle Impound	Vehicle driven in the offense may be impounded for up to 12 mos. if person convicted is registered owner of said vehicle

3rd Offense – No Probation Granted	
Jail	Minimum of 120 days, maximum of one year.
Fine	Minimum of \$390.00 (plus mandatory penalty assessments) to maximum of \$1,000.00 (plus mandatory penalty assessments).
License Suspension	Revoked for three years. License shall be surrendered to the Court and you shall be designated as an "habitual traffic offender." The status of an habitual traffic offender will result in an enhanced jail sentence if you drive with a revoked license in a violation of Vehicle Code Section 14601.2
Treatment Program	None required; however, DMV will not reinstate license until proof of completion of a treatment program.
Vehicle Impoundment	Vehicle driven in the offense may be impounded for up to 12 mos. if person convicted is registered owner of said vehicle
3rd Offense – Probation Granted	
Jail	Minimum of 120 days, maximum of one year.
Fine	Minimum of \$390.00 (plus mandatory penalty assessments) to maximum of \$1,000.00 (plus mandatory penalty assessments).
License Suspension	3-year license suspension.
Treatment Program	18-month or 30 month alcohol/drug program if you have not completed one before.
Vehicle Impoundment	Vehicle driven in the offense may be impounded for up to 12 mos. if person convicted is registered owner of said vehicle

4th Offense – No Probation Granted	
Jail	Minimum of 16 months, maximum of 2 or 3 years in state prison or 180 days to 1 year in county jail
Fine	Minimum of \$390.00 (plus mandatory penalty assessments) to maximum of \$1,000.00 (plus mandatory penalty assessments).
License Suspension	Revoked for four years. License shall be surrendered to the Court and you shall be designated as an "habitual traffic offender." The status of an habitual traffic offender will result in an enhanced jail sentence if you drive with a revoked license in a violation of Vehicle Code Section 14601.2
Treatment Program	None required; however, DMV will not reinstate license until proof of completion of a treatment program.
Vehicle Impoundment	Vehicle driven in the offense may be impounded for up to 12 mos. if person convicted is registered owner of said vehicle
4th Offense – Probation Granted	
Jail	Minimum of 180 days, maximum of 1 year or If ordered to attend 30 month treatment program: Minimum of 30 days, maximum of one year.
Fine	Minimum of \$390.00 (plus mandatory penalty assessments) to maximum of \$1,000.00 (plus mandatory penalty assessments).
License Suspension	Revoked for four years. License shall be surrendered to the Court and you shall be designated as an "habitual traffic offender." You will be required to sign an affidavit on a DMV form acknowledging the license revocation and the designation as an habitual traffic offender. The status of an habitual traffic offender will result in an enhanced jail sentence if you drive with a revoked license in violation of Vehicle Code Section 14601.2.
Treatment Program	Participate in either an 18 month or upon a showing of good cause, a 30 month treatment program approved pursuant to Chapter 9, Part 2 of Division 10.5 of the Health and Safety Code, in order to be eligible for a driver's license following license revocation, regardless of the successful performance of other conditions of probation. No credit may be given for any program activities completed prior to the date of the offense charged.
Vehicle Impound	Vehicle driven in the offense may be impounded for up to 12 mos. if person convicted is registered owner of said vehicle