

KY Transportation Cabinet **Division of Driver Licensing**

DUI Laws in Kentucky

WHAT IS DUI? WHAT DOES IT MEAN?

DUI is an abbreviation of driving while under the influence of intoxicants (alcohol) or of any substance or substances which impair driving ability. Other substances can include illegal drugs, prescription drugs, inhalants such as glue, gasoline, spray paint etc., and/or over the counter medications. Kentucky's DUI law has an "Illegal Per Se" provision. "Illegal Per Se" (On the face of or by itself) means it is illegal to drive with a blood or breath alcohol content of 0.08 or higher.

Prosecutors no longer have to prove defendants were impaired if they are being tried for the per se clause of K.R.S. 189A.010. Requires that test be given within 2 hours of operation of motor vehicle for results to be admitted into evidence in per se DUI prosecutions.

*Operators can be convicted at levels lower than .08 based on other evidence which indicates impairment.

*Drivers under the age of 21 are deemed to be under the influence at .02 breath or blood alcohol level.

*Commercial vehicle drivers operating commercial vehicles are deemed to be under the influence at a breath or blood alcohol level of .04. Commercial vehicle operators may also be placed out of service for 24 hours for any detectable amount of alcohol or controlled substance in their system. KRS 281A.210

The DUI law establishes minimum jail times (which cannot be probated, suspended, conditionally discharged or otherwise subject to early release) if convicted of DUI and aggravating circumstance(s) exist:

Aggravating Circumstances (KRS 189A.010 [11]) Result in higher minimum jail time:

1. Over 30 mph over speed limit
2. Wrong way on limited access highway
3. Causes accident resulting in death or serious physical injury
4. Alcohol level of .18 or more within 2 hours after operating
5. Refusal to submit to testing
6. Transporting passengers under 12 years of age

DUI PENALTIES

First Offense Within a Ten Year Period

\$200 - 500 Fine

2 to 30 Days in Jail

90 Day Alcohol or Substance Abuse Program

30 to 120 Day License Suspension

Possible 48 Hours - 30 Days Community Labor

*If aggravating circumstances present-4 days imprisonment

Second Offense Within a Ten Year Period

\$350-500 Fine

10 Days-6 Months Community Labor

7 Days - 6 Months in Jail

1 Yr Alcohol or Substance Abuse Treatment

12 to 18 Month License Suspension

*If aggravating circumstances present-14 days imprisonment

Third Offense Within a Ten Year Period

\$500 - 1,000 Fine/30 Days-12 Months Jail

10 Day-12 Months Community Labor

Year Alcohol or Substance Abuse Treatment

24 to 36 Month License Suspension

*If aggravating circumstances present-60 days imprisonment

Fourth Offense Within a Ten Year Period

Class D Felony

Minimum Term 120 Days Imprisonment Without Probation

60 Month License Suspension

1 Year Alcohol or Substance Abuse Treatment

*If aggravating circumstances present-240 days imprisonment

IMPLIED CONSENT

Implied Consent applies to any person who operates or is in physical control of a motor vehicle or a vehicle that is not a motor vehicle anywhere in Kentucky. Implied Consent means that when a person operates or is in physical control of a motor vehicle or a vehicle that is not a motor vehicle as defined by statute in Kentucky they have been deemed to have given consent to one (1) or more tests of blood, breath and urine, or combination for the purpose of determining alcohol concentration or presence of a substance which may impair one's driving ability. Only through a test of blood, breath or urine can alcohol levels be accurately measured. The breath test is precise and efficient in measuring BRAC.

It analyzes a breath sample to determine the amount of alcohol in the breath. A blood test measures the amount of alcohol in the blood. (Alcohol concentration means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath)

License Suspension for Refusal to Take Alcohol or Subsequent Tests

It should be noted that all of the offenses listed below are for refusals within a five year period.

1st Offense 30 to 120 Days

3rd Offense 24 to 36 Months

2nd Offense 12 to 18 Months

4th Offense or subsequent-60 Months

Whether you are found guilty or innocent of the DUI charge, you will remain answerable for the Refusal and risk license suspension.

BAC - Stands for **B**lood **A**lcohol **C**oncentration and refers to the amount of ethyl alcohol in the blood.

BRAC- Stands for **B**reath **A**lcohol **C**oncentration and refers to the amount of ethyl alcohol in the breath.

Factors Which May Affect Blood Alcohol Concentration

- Health
- Body Weight
- Food in the Stomach
- Amount Consumed
- Rate of Consumption

Other Factors Which May Affect Your Driving Ability

- Prescription Drugs
- Over-the-Counter Drugs
- Inhalants such as glue, gasoline etc.
- Illegal Drugs

The metabolism of alcohol takes place in the liver. The body can burn approximately ½ ounce of alcohol in one hour. The liver eliminates approximately 90 percent of the alcohol from the body.

The rest is eliminated through the lungs, perspiration, and urine. The only thing that sobers you up is time. If you drink or take substances which affect you physically/mentally..**DO NOT DRIVE!!!**

Open Container Law

This new provision prohibits an open alcoholic beverage in the passenger area of a motor vehicle while on the public highways or right of way. To learn more about these laws, visit <http://www.nhtsa.dot.gov/people/injury/research/OpenContainer/>.

License Plate Confiscation and Ignition Interlocks for Repeat Offenders

Ignition Interlock Device

Drivers convicted of a second or subsequent DUI will forfeit their license plates to the courts during the period in which the driver license is suspended. The court may order an *ignition interlock device* to be installed on the violator's vehicle after the driver serves a statutory suspension period. The *ignition interlock device* prevents a driver from operating that vehicle if the driver's BAC is .02 or greater.