

At-a-Glance DWI Law Reference

This reference is an overview of DWI laws and is not representative of all the DWI laws.

Bail Restriction

LSA C.Cr.P. Art. 320(C). Conditions of release on bail; operating a vehicle while intoxicated

Requires ignition interlock for a person charged with a second or subsequent DWI or DWI related charge.

LSA C.Cr.P. Art. 321(C)4 & 14. Arrests for certain crimes; release on own recognizance prohibited

Prohibits the release of a person on his own recognizance or the signature of any other person when arrested for Vehicular Homicide or DWI if the person has a prior DWI conviction.

DWI Sentencing Guidelines

First Offense [R.S. 14:98.1]

- Fine \$300 - \$1,000
- License suspended for 1 year [R.S. 32:414(A)(1)(a)]
- Jail 10 days - 6 months - can be suspended if placed on probation and:
 - serve 48 hours in jail or
 - 32 hours of Community Service Work (CSW), plus
 - Driver Improvement Program and
 - Court-approved Substance Abuse Program
 - court may require ignition interlock device during probation [R.S. 15:378.2(A)]
- .150%g - .199%g - 48 hours of above sentence shall be served without benefits [in addition to the 48 hours under (A)(1)(a)]. [14:98.1(A)(2)]
- .200%g or greater [14:98.1(A)(3)(a)]
 - 48 hours of above sentence shall be served without benefits [in addition to the 48 hours under (A)(1)(a)]
 - Fine \$750 - \$1000
 - License suspended for 2 years [R.S. 14:98.1(A)(3)(b); R.S. 32:414(A)(1)(c)(i)]
 - Requirement for ignition interlock installed in vehicle during length of probation [R.S. 14:98.1(A)(3)(c); 15:378.2(A)]

Second Offense [R.S. 14:98.2]

- Fine \$750 - \$1,000
- License suspended for 2 years [R.S. 32:414(B)]
- Jail 30 days - 6 months - (48 hours cannot be suspended); remainder can be suspended if:
 - 15 days in jail (without benefits and in addition to the 48 hours) or
 - 240 hours of CSW, plus
 - Court-approved Substance Abuse Program, and
 - Driver Improvement Program, and
 - Requirement for ignition interlock installed in vehicle during length of probation (a min of 6 months & length of suspension) [R.S. 14:98.2(A)(1)(d); 15:306(A) R.S. 5:378.2(A)]
- .150%g - .199%g -- 96 hours of above sentence shall be served without benefits. [14:98.2(A)(2)]
- .200%g or greater [14:98.2(A)(3)(a)]
 - 96 hours of above sentence shall be served without benefits
 - Fine \$1000
 - License suspended for 4 years [R.S. 14:98.2(A)(3)(b) & R.S. 32:414(A)(1)(c)(ii)]
 - Requirement for ignition interlock installed in vehicle for 3 years [R.S.

14:98.2(A)(3)(c); 15:306(A); R.S. 15:378.2(A)]

If the arrest for the second offense occurs within one year of the commission of the first offense [14:98.2(A)(4)] :

- 30 days of the sentence without benefits; plus other sentencing requirement under 14:98.2(A)
 - .200%g or greater
 - 30 days without benefits
 - Fine \$1000
 - License suspended for 4 years
- [14:98.2(A)(3)(b) & R.S. 32:414(A)(1)(c)(ii)]
- Ignition interlock required

If the first conviction was for vehicular homicide, first degree vehicular negligent injuring or 3rd degree feticide [14:98.2(D)]:

- Jail 1-5 years with or without hard labor - (6 months without benefits); remainder can be suspended if:
 - 240 hours of CSW, plus
 - Court-approved Substance Abuse Program, and
 - Driver Improvement Program, and
 - Requirement for ignition interlock installed in vehicle for min of 6 months and during length of suspension [R.S. 14:98.2(D)(3); R.S. 15:306(A); R.S. 15:378.2(A)] and HIP for not less than 6 months
- Fine \$2000

Third Offense [R.S. 14:98.3]

- Fine \$2,000
- License suspended for 3 years [R.S. 32:414(D)(1)]
- Ignition interlock required in vehicle until completion of treatment or HIP or treatment court [R.S. 14:98.3(A)(3)(d)(3)]
- Jail 1 - 5 years with or without hard labor (1 year without benefits unless in a drug division probation program)
- Vehicle confiscation (at discretion of DA by written motion 5 days before sentencing)
- Probation for remainder of sentence, plus
 - 240 hours of CSW
 - Home Incarceration for not less than 6 months
 - Driver Improvement Program
 - Obtain employment
 - Evaluation and Inpatient/Outpatient Substance Abuse Treatment, or
 - participation in a court approved substance abuse program such as Drug or DWI Court pursuant to R.S. 13:5301 et seq. if eligible.

If the defendant has previously received the benefit of parole, probation, suspension or participated in a drug division probation program, substance abuse treatment or HIP as a third or subsequent offender [14:98.3(B)(1)]:

- Fine \$2,000
- License suspended for 3 years [R.S. 32:414(D)(1)(a)]
- Ignition interlock required in vehicle
- Jail 2 - 5 years with or without hard labor (2 years without benefits)
- Vehicle confiscation (at discretion of DA by written motion 5 days before sentencing)
- Probation for remainder of sentence, plus
 - 240 hours of CSW

- Home Incarceration for not less than 6 months
- Driver Improvement Program
- Obtain employment

Fourth Offense or Subsequent [R.S. 14:98.4]

- Fine \$5,000
- License suspended for 3 years [R.S.32:414(D)(1)(a)]
- Ignition interlock required in vehicle until completion of treatment, HIP or treatment court [R.S. 14:98.4(A)(2)(d)]
- Jail 10 - 30 years with or without hard labor (2 years without benefits unless in a drug division probation program)
- Vehicle confiscation (at discretion of DA by written motion 5 days before sentencing)
- Probation not to exceed five years, plus
 - 320 hours of CSW
 - Driver Improvement Program
 - Home Incarceration for the length of probation
 - Obtain employment
 - Evaluation and Inpatient/Outpatient Substance Abuse Treatment, or
 - participation in a court approved substance abuse program such as Drug or DWI Court pursuant to R.S. 13:5301 et seq. if eligible.

If the defendant has previously been required to participate Drug or DWI Court:

- 3 years of the sentence without benefits plus other requirements [14:98.4(A)(1)(b)]

If the defendant has previously been required to participate in substance abuse treatment or home incarceration as a third offender [14:98.4(B)(1)]:

- Fine \$5,000
- License suspended for 3 years. [RS.32:414(D)(1)(a)]
- Ignition interlock required in vehicle
- Jail 10 - 30 years at hard labor (3 years without benefits and not eligible for suspension of sentence for participation in a drug division probation program)
- Vehicle confiscation (at discretion of DA by written motion 5 days before sentencing)
- Probation for remainder of sentence, plus
 - 320 hours of CSW
 - Home Incarceration for length of probation
 - Driver Improvement Program
 - Obtain employment

If the defendant has previously received the benefit parole, probation or suspension of sentence as a fourth offender [14:98.4(C)]:

- Fine \$5,000
- License suspended for 3 years [R.S.32:414(D)(1)(a)]
- Jail 10 - 30 years at hard labor (no part of the sentence may be imposed with benefits and no portion of the sentence shall be imposed concurrently with the balance of any sentence.)
- Vehicle confiscation (at discretion of DA by written motion 5 days before sentencing)

R.S. 14:98(B)(1) “Child Endangerment Law”

If a child 12 years of age or younger was a passenger in the vehicle at the time of the commission of the offense, the minimum mandatory sentence provided for each offense cannot be suspended.

R.S. 14:98.6 Underage driving under the influence

First Offense [14:98.6(C)(1)]

- Fine \$100-\$250.00
- Jail 10 days - 3 months - can be suspended if:
 - Probation, plus
 - 32 hours of CSW
 - Driver Improvement Program and
 - Court-approved Substance Abuse Program
 - License suspended for 1 year [R.S. 32:414(A)(1)(a)]
 - court may require ignition interlock device during probation

Second Offense [14:98.6(C)(2)]

- Fine \$250-\$500
- License suspended for 2 years [R.S.32:414(B)]
- court may require ignition interlock device during probation
- Jail 30 days - 6 months - - can be suspended if placed on probation and:
 - serve 48 hours in jail without benefits, plus
 - Driver Improvement Program and
 - Court-approved Substance Abuse Program or
 - 80 hours of CSW
 - Driver Improvement Program and
 - Court-approved Substance Abuse Program

Other DWI Related Violations

R.S. 14:98.7 Unlawful refusal to submit to chemical Tests; arrests for driving while intoxicated (refusal to submit to a chemical test after two prior refusals.)

- Fine \$300 - \$1,000
- Jail 10 days - 6 months - can be suspended if placed on probation and:
 - serve two (2) days in jail, plus
 - Driver Improvement Program and
 - Court-approved Substance Abuse Program or
 - 32 hours of CSW, plus
 - Driver Improvement Program and
 - Court-approved Substance Abuse Program

R.S. 14:98.8 Operating a vehicle while under suspension for certain prior offenses (operating vehicle while under suspension for DWI related offenses or refusal to submit to test.)

- Jail 15 days - 6 months (sentence cannot be suspended)
- Jail 60 days - 6 months (sentence cannot be suspended when the operator's driving privileges were suspended for manslaughter, vehicular homicide or negligent homicide resulting from the operation of a motor vehicle.)

Home Incarceration and DWI'S

R.S. 14:98.5(B) Home Incarceration and **C.Cr.P. Art. 894.2. Home incarceration; Requirements**

Require the recommendation of the district attorney or the Department of Public Safety and Corrections and does not apply to a defendant convicted of a second DWI violation if committed within five years until the defendant serves a minimum 48 consecutive hours of imprisonment.

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