

# 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. 336.2. 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. 334.4. 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
- .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)]
  - Placed on probation with requirement for ignition interlock installed in vehicle

### 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
  - Placed on probation with requirement for ignition interlock installed in vehicle
- .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)]
  - Placed on probation with requirement for ignition interlock installed in vehicle

**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)]

**If the first conviction was for vehicular homicide, first degree vehicular negligent injuring or 3<sup>rd</sup> 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
  - Probation with requirement for ignition interlock installed in vehicle 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
- 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)]
- 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
- 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.