

# Penalties for alcohol or drug-related violations

Driving while intoxicated is a crime. Your judgment, coordination and ability to drive a vehicle change when you consume any amount of alcohol. The level of impairment depends on five conditions

- the amount of alcohol you drink
- the amount of food you eat before or while you drink alcohol
- the length of time you drink alcohol
- your body weight
- your gender

There is no quick method to become sober. The best method is to wait until your body absorbs the alcohol. The average rate that your body processes alcohol is approximately one drink per hour.

## Types of alcohol and drug-related violations in New York State

- **Driving While Intoxicated (DWI)**  
.08 Blood Alcohol Content (BAC) or higher or other evidence of intoxication. For drivers of commercial motor vehicles: .04 BAC or other evidence of intoxication.
- **Aggravated Driving While Intoxicated (Aggravated DWI)**  
.18 BAC or higher
- **Driving While Ability Impaired by Alcohol (DWAI/Alcohol)**  
More than .05 BAC but less than .07 BAC, or other evidence of impairment.
- **Driving While Ability Impaired by a Single Drug other than Alcohol (DWAI/Drug)**
- **Driving While Ability Impaired by a Combined Influence of Drugs or Alcohol (DWAI/Combination)**
- **Chemical Test Refusal**  
A driver who refuses to take a chemical test (normally a test of breath, blood or urine).
- **Zero Tolerance Law**  
A driver who is less than 21 years of age and who drives with a .02 BAC to .07 BAC violates the Zero Tolerance Law.

In New York State, the penalties for an alcohol or drug-related violation include the loss of driving privileges, fines, and a possible jail term.

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<b>VIOLATION</b>	<b>MANDATORY FINE</b>	<b>MAXIMUM JAIL TERM</b>	<b>MANDATORY DRIVER LICENSE ACTION</b>
Aggravated Driving While Intoxicated (AGG DWI)	\$1,000 - \$2,500	1 year	Revoked for at least one year
Second AGG DWI in 10 years (E felony)	\$1,000 - \$5,000	4 years	Revoked for at least 18 months
Third AGG DWI in 10 years (D felony)	\$2,000 - \$10,000	7 years	Revoked for at least 18 months
Driving While Intoxicated (DWI) or Driving While Impaired by a Drug (DWAI-Drug)	\$500 - \$1,000	1 year	Revoked for at least six months
Second DWI or DWAI-Drug violation in 10 years (E felony)	\$1,000 - \$5,000	4 years	Revoked for at least one year
Third DWI or DWAI-Drug violation in 10 years (D felony)	\$2,000 - \$10,000	7 years	Revoked for at least one year
Driving While Ability Impaired by a Combination of Alcohol/Drugs (DWAI-Combination)	\$500 - \$1,000	1 year	Revoked for at least six months
Second DWAI-Combination in 10 years (E felony)	\$1,000 - \$5,000	4 years	Revoked for at least one year
Third DWAI-Combination in 10 years (D felony)	\$2,000 - \$10,000	7 years	Revoked for at least one year

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Driving While Ability Impaired by Alcohol (DWA1)	\$300 - \$500	15 days	Suspended for 90 days
Second DWA1 violation in 5 years	\$500 - \$750	30 days	Revoked for at least six months
Third or subsequent DWA1 within 10 years (Misdemeanor)	\$750 - \$1,500	180 days	Revoked for at least six months
Zero Tolerance Law	\$125 civil penalty and \$100 fee to terminate suspension	None	Suspended for six months
Second Zero Tolerance Law	\$125 civil penalty and \$100 re-application fee	None	Revoked for one year or until age 21
Chemical Test Refusal	\$500 civil penalty (\$550 for commercial drivers)	None	Revoked for at least one year, 18 months for commercial drivers.
Chemical Test Refusal within five years of a previous DWI-related charge/Chemical Test Refusal	\$750 civil penalty	None	Revoked for at least 18 months, one-year or until age 21 for drivers under age 21, permanent CDL revocation for commercial drivers.
Chemical Test Refusal - Zero Tolerance Law	\$300 civil penalty and \$100 re-application fee	None	Revoked for at least one year.

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Chemical Test Refusal - Second or subsequent Zero Tolerance Law	\$750 civil penalty and \$100 re- application fee	None	Revoked for at least one year.
Driving Under the Influence (Out-of- State)	N/A	N/A	Revoked for at least 90 days. If less than 21 years of age, revoked at least one year.
Driving Under the Influence (Out-of State) with any previous alcohol-drug violation	N/A	N/A	Revoked for at least 90 days (longer term with certain prior offenses). If less than 21 years of age, revoked at least one year or until age 21 (longest term).

## Additional penalties

- greater penalties can also apply for multiple alcohol or drug violations within a 25-year period
- surcharges are added to alcohol-related misdemeanors (\$260) and felonies (generally \$400, but varies slightly depending on court of conviction)
- three or more alcohol or drug-related convictions or refusals within 10 years can result in permanent revocation, with a waiver request permitted after at least 5 years
- a driver with an Aggravated DWI violation conviction within the prior 10 years will receive a minimum 18-month revocation if convicted of DWI, DWAI/Drugs or DWAI/Combination. Also, a driver with a prior DWI, Aggravated DWI, DWAI/Drugs or DWAI/Combination with the prior 10 years will receive a minimum 18-month revocation
- a driver convicted of an Aggravated DWI, DWI, DWAI/Drug, DWAI/combination, vehicular assault and aggravated vehicular assault, or vehicular manslaughter and vehicular homicide three or more times in the preceding 15 year period is guilty of a Class D felony