

# The North Carolina Driver's Handbook

Chapter 2 — Alcohol and the Law – pg. 27

## **ALCOHOL AND THE LAW**

Everyone's driving is impaired at a blood alcohol concentration, or BAC, of 0.08 percent, but many people are affected at much lower levels. Research shows that the risk of being involved in a crash increases when the alcohol level is 0.05 percent, and at 0.08 percent the risk of causing a fatal crash is even greater.

### **Driving While Impaired**

In 1983, the North Carolina General Assembly enacted the Safe Roads Act. This act repealed all previous laws on drunk driving in North Carolina and replaced them with a single offense of "Driving While Impaired—DWI." If an officer charges you with driving while impaired, you will be asked to take a chemical test of your breath or blood. Refusal to perform any required test will result in the immediate revocation of your driver license for at least 30 days and an additional, minimum 12-month revocation by the DMV. In certain instances, after six months of the willful refusal revocation has elapsed, the judge may issue a limited driving privilege. If your intoxication test shows a BAC of 0.08 percent or more (0.04 or more, if you are driving a commercial motor vehicle), your driving privilege will be revoked immediately for a minimum of 30 days. Additionally, the results of your chemical test or the fact that you refused to take the test will be admissible as evidence in court.

### Driving while impaired can be proven in one of two ways:

- By proving the driver's physical or mental fitness are appreciably impaired by alcohol, drugs or a combination of both; or
- By proving the driver's blood alcohol concentration is 0.08 percent or more.

### DWI laws:

- Allow enforcement agencies to set up road blocks to check for impaired drivers;
- Prohibit drivers from consuming any alcoholic beverage, including beer, while driving;
- Prohibit the transport of an open container of any alcoholic beverage, including in the passenger area of the car;
- Prohibit the possession of alcoholic beverages (open or closed) in the passenger area of a commercial motor vehicle while upon any highway, street or public vehicular area;
- Provide for different levels of severity of punishment based on the severity of the offense;
- Require persons who are convicted of DWI for the second time to serve a jail sentence;

- Attempt to punish DWI offenders, but also try to help them deal with problems they may have with alcohol;
- Require that repeat DWI offenders or persons with high BACs be checked to see if they have an alcohol problem;
- Require persons with lower BACs to attend alcohol safety schools; and
- Require anyone convicted of DWI to obtain a substance abuse assessment prior to the reinstatement of driving privileges.

### If you are convicted of DWI:

**First conviction** — Mandatory revocation of your driver license for a period of one year.

**Second conviction** — Mandatory driver license revocation for a period of four years when convicted of a prior offense which occurred within three years of the current offense for which the license is being revoked.

**Third conviction** — Mandatory, permanent driver license revocation if at least one of the prior convictions occurred within the past five years.

**Fourth conviction** — Mandatory permanent driver license revocation. The fourth conviction is considered a felony if the three prior DWI convictions occurred within the past seven years.

If you are convicted of DWI while your license is revoked for an earlier DWI conviction, the court may order your vehicle seized and sold.

### **Blood Alcohol Concentration Restrictions:**

A blood alcohol concentration restriction will be required when a license is restored following a suspension for DWI or when a Limited Driving Privilege is issued following a DWI conviction.

On the first restoration, the alcohol concentration restriction will be 0.04. On a second or subsequent restoration, the alcohol concentration restriction will be 0.00. Additionally, if you are convicted of DWI in a commercial motor vehicle, driving after consuming alcohol or drugs while under the age of 21 or felony death by vehicle, the alcohol concentration restriction will be 0.00.

Furthermore, a conviction of Driving While Impaired with a BAC of 0.15 or more, or another conviction within the past seven years, will require an ignition interlock device to be installed on the vehicle.

### **Alcohol and the Young Driver**

The legal age to purchase any alcoholic beverage in North Carolina is 21. It is against the law for any person who is younger than 21 years of age to purchase or to attempt to purchase alcohol.

The law requires a one-year driver license revocation upon conviction for:

- Any underage person who attempts to purchase or purchases an alcoholic beverage;
- Any underage person who aids or abets another who attempts to purchase or purchases an alcoholic beverage;
- Any underage person who obtains or attempts to obtain alcoholic beverages by using or attempting to use a fraudulent driver license or other ID or another person's driver license or ID;  
or
- Any person who permits his or her driver license or any other ID to be used by an underage person to purchase or attempt to purchase an alcoholic beverage.
- Any person who gives an alcoholic beverage to any underage person.

If a driver who is less than 21 years old is convicted for an offense of driving with any amount of alcohol or drugs in his/her body, his/her license will be revoked for one year.

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