

<div><div><div>THE HIGH COST OF DWI IN NEW MEXICO</div><div><div>2009-2010</div></div></div></div>				
DWI Offense	Jail ¹	Fines & Fees ²	License Revocation	Other
<div><div>1st</div><div>misdemeanor</div></div>	<p>Maximum: 90 days, 66-8-102E</p> <p>Aggravated DWI⁵, Mandatory: <u>Additional 48 hours</u> if convicted of aggravated DWI, 66-8-102D & E</p> <p>Probation Violations: <u>48 hours</u> (mandatory) if offender fails to comply with any condition of probation. 66-8-102E</p>	<p>Maximum fine: <u>\$500</u>, 66-8-102E</p> <p>Mandatory Fees: Mandatory Crime Lab Fee: <u>\$65</u>, 31-12-7A Mandatory Community Fee: <u>\$75</u>, 31-12-7B Mandatory Corrections Fee: <u>\$10-20</u>, 35-6-1D(1) Mandatory Court Automation Fee: <u>\$10</u>, 35-6-1D(2) Mandatory Traffic Safety Fee: <u>\$3</u>, 35-6-1D(3) Mandatory Judicial Ed. Fee: <u>\$3</u>, 35-6-1D(4) Mandatory Jury/Witness Fee: <u>\$5</u>, 35-6-D(5) Mandatory Brain Injury Fee: <u>\$5</u>, 35-6-1D(6) Mandatory Court Facilities Fee: <u>\$10-24</u>, 35-6-1D(7)</p>	<p>Administrative Revocation³: Under 21: <u>1 year</u> (.02+ BAC, 66-8-111C(2)) Age 21+: <u>6 months</u> .08+ BAC OR .04+ BAC for a CDL, 66-8-111C Any Refusal: <u>1 year</u> (66-8-111B) Ignition interlock license available 66-5-503⁷</p> <p>Revocation after Criminal Conviction⁶ Upon Conviction: <u>1 year</u> 66-5-29A(2) and 66-5-29C(1) Ignition interlock license required, 1 year. 66-8-102N(1)⁶</p>	<p>Mandatory: Alcohol Screening, 66-8-102E & K DWI school, 66-8-102E Community service, minimum 24 hrs, 66-8-102E Ignition Interlock installed for 1 year, 66-8-102N(1)⁶</p> <p>Court discretion: Treatment, 66-8-102E & K; Probation, up to 1 year, 66-8-102E⁹</p> <p>Other Costs ²: Mandatory Alcohol Screening: <u>\$100-200</u> License Reinstatement Fee: <u>\$100</u>, 66-5-33.1A, B Interlock license Fees: <u>\$63</u>, 66-5-35, 66-5-44 DWI school: up to <u>\$150</u> Cost of Interlock: <u>\$960</u>/year or more</p>
<div><div>2nd</div><div>misdemeanor</div></div>	<p>Maximum: 364 days, 66-8-102F Mandatory: <u>96 hours</u>, 66-8-102F1 Failure to comply: <u>mandatory extra 7 days</u> for failure to comply with sentence, 66-8-102F(1)</p> <p>Aggravated DWI⁵, Mandatory: <u>Additional 96 hours</u> jail if convicted of aggravated DWI, 66-8-102D & F(1)</p>	<p>Maximum fine: <u>\$1,000</u> 66-8-102F Mandatory fine: <u>\$500</u> 66-8-102F(1)</p> <p>All other fines and fees same as first offense</p>	<p>Administrative Revocation³: .02+ BAC (under 21) OR .04+ BAC(Commercial DL) OR .08+ BAC OR any refusal: <u>All 1 year revocation</u> 66-8-111B and 66-8-111C Ignition interlock license available 66-5-503⁷</p> <p>Revocation after Criminal Conviction⁶ <u>2 years</u>, 66-5-29A(3), and 66-5-29C(2)(a) Ignition interlock license required, 2 years, 66-8-102N(2)⁶</p>	<p>Mandatory: Treatment: 66-8-102L⁸ Screening: 66-8-102K Community service, minimum 48 hrs, 66-8-102F(1) Ignition interlock installed for 2 years, 66-8-102N(2)⁶</p> <p>Court discretion: Probation, up to 5 years, 66-8-102F⁹ All other costs same as first offense.</p> <p>Albuquerque, Dona Ana County, Las Cruces, and Torrance County: <u>Forfeiture of vehicle in civil action</u></p>
<div><div>3rd</div><div>misdemeanor</div></div>	<p>Maximum: <u>364 days</u>, 66-8-102F Mandatory: <u>30 days</u>, 66-8-102F2 Failure to comply: <u>Mandatory 60 days</u> for failure to comply with sentence, 66-8-102F(2)</p> <p>Aggravated DWI⁵, Mandatory: <u>Additional 60 consecutive days</u> if convicted of aggravated DWI, 66-8-102D & F(2)</p>	<p>Maximum fine: <u>\$1,000</u> 66-8-102F Mandatory fine: <u>\$750</u> 66-8-102F(2)</p> <p>All other fines and fees same as first offense</p>	<p>Administrative Revocation³: Same as second offense</p> <p>Revocation after Criminal Conviction⁶ <u>3 years</u>, 66-5-29A(3) and 6-5-29C(2)(b) Ignition interlock license required, 3 years, 66-8-102N (3)⁶</p>	<p>Mandatory: Treatment: 66-8-102L⁸ Screening, 66-8-102K Ignition interlock installed for 3 years, 66-8-102N(3)⁶ Community service, minimum 96 hours, 66-8-102F(2)</p> <p>Court discretion: Probation, up to 5 years, 66-8-102F⁹ All other costs same as first offense.</p> <p>Albuquerque, Dona Ana County, Las Cruces, Torrance County and Santa Fe (City and County): <u>Forfeiture of vehicle in civil action</u></p>
<div><div>4th</div><div>4th degree felony</div></div>	<p>Maximum: <u>18 months</u> 66-8-102G Mandatory: <u>6 months</u> 66-8-102G</p>	<p>Maximum fine: <u>\$5,000</u> 31-18-15E(9)</p> <p>All other fines and fees same as first offense</p>	<p>Administrative Revocation³: Same as second offense</p> <p>Revocation after Criminal Conviction⁶ The remainder of the offender's life Ignition interlock license required, 66-5-29A(3) & 66-5-29C(2)(c); may apply to district court for restoration of license after five years if not subsequently convicted of DWI. 66-5-5D, 66-8-102O</p>	<p>Mandatory: Treatment: 66-8-102M⁸ Screening, 66-8-102K Install ignition interlock for the remainder of the offender's life 66-8-102N(4)⁶; may apply to district court for restoration of license after five years if not subsequently convicted of DWI. 66-5-5D, 66-8-102O All other costs same as first offense.</p> <p>Albuquerque, Dona Ana County, Las Cruces, Torrance County and Santa Fe (City and County): <u>Forfeiture of vehicle in civil action</u></p>
<div><div>5th</div><div>4th degree felony</div></div>	<p>Maximum: <u>2 years</u> 66-8-102H Mandatory: <u>1 year</u> 66-8-102H</p>	<p>Maximum fine: <u>\$5,000</u> 31-18-15E(9)</p> <p>All other fines and fees same as first offense</p>	<p>Administrative Revocation³: Same as second offense</p> <p>Revocation after Criminal Conviction⁶ Same as fourth offense</p>	<p>Same as fourth offense</p>
<div><div>6th</div><div>3rd degree felony</div></div>	<p>Maximum: <u>30 months</u> 66-8-102I Mandatory: <u>18 months</u>, 66-8-102I</p>	<p>Maximum fine: <u>\$5,000</u> 31-18-15E(9)</p> <p>All other fines and fees same as first offense</p>	<p>Administrative Revocation³: Same as second offense</p> <p>Revocation after Criminal Conviction⁶ Same as fourth offense</p>	<p>Same as fourth offense</p>
<div><div>7th</div><div>or subsequent 3rd degree felony</div></div>	<p>Maximum: <u>3 years</u> 66-8-102J Mandatory: <u>2 years</u> 66-8-102J</p>	<p>Maximum fine: <u>\$5,000</u> 31-18-15E(9)</p> <p>All other fines and fees same as first offense</p>	<p>Administrative Revocation³: Same as second offense</p> <p>Revocation after Criminal Conviction⁶ Same as fourth offense</p>	<p>Same as fourth offense</p>
<div><div>Driving While Revoked</div><div>misdemeanor</div></div>	<p>Maximum: <u>364 days</u>, 66-5-39A Mandatory: <u>7 days</u>, 66-5-39A</p>	<p>Maximum fine: <u>\$1,000</u> 66-5-39A Mandatory fine: <u>\$300</u> 66-5-39A</p>	<p>Administrative Revocation³: There is <u>no administrative license sanction</u> for driving while revoked for DWI.</p> <p>Revocation after Criminal Conviction⁶ <u>1 year added to current revocation period</u>, 66-5-39C</p>	<p>Mandatory: 30 days immobilization of vehicle driven by offender, 66-5-39B</p> <p>Albuquerque, Dona Ana County, Las Cruces, Torrance County and Santa Fe (City and County): <u>Forfeiture of vehicle in civil action</u></p>
<div><div>DWI Vehicular Homicide</div><div>3rd degree felony</div></div>	<p>Maximum: <u>6 years</u>, 31-18-15A(7)</p>	<p>Maximum fine: <u>\$ 5,000</u> 31-18-15E(6)</p>	<p>Administrative Revocation³: Up to 1 year, no limited license or interlock license permitted, 66-5-35A(5) and 66-5-503C⁷</p> <p>Revocation after Criminal Conviction⁶ 1 year, no limited license or ignition interlock license permitted, 66-5-29A(4) and B.</p>	<p>Mandatory: <u>4 years extra jail time added for every prior DWI conviction within the last 10 years</u>, 66-8-101D, including tribal convictions, 66-8-101E(2)</p>
<div><div><div>The New Mexico Department of Transportation and The Traffic Safety Bureau</div><div><div>YOU DRINK. YOU DRIVE. YOU LOSE.</div><div>NMDOT</div></div></div></div>				

1. Mandatory jail time must be consecutively served. **2. Fines and fees** do not include increased insurance costs, treatment, lost wages, towing and storage, victim impact panels and attorney fees. **3. Administrative Revocation:** Licenses are administratively revoked for driving with .08 BAC or higher (21 and older), .02 BAC or higher (under 21), .04 or higher (commercial driver's licenses) and any refusal. These are violations of the Implied Consent Act, 66-8-105 through 112. Note that a violation of the Implied Consent Act is not part of the *criminal* sentence. **4. Chemical test must be given within 3 hours of driving and must measure alcohol consumed before or while driving.** The results of a chemical test given **more than 3 hours after driving** may be introduced as evidence of the BAC in the driver's blood or breath *at the time of the test* (not the time of driving) and the judge or jury will determine how much weight to give the evidence. 66-10-110E. **5. Aggravated DWI consists of:** (1) Refusal to take a BAC test at time of arrest for DWI; **OR** (2) Testing at a BAC of .16 or higher within 3 hours of driving when the BAC is from alcohol consumed before or while driving ; **OR** (3) Causing bodily injury to someone while driving under the influence of alcohol or other drugs, 66-8-102D. See 66-8-102T(1) for "bodily injury." **6. Criminal ignition interlock provisions:** Interlock **must** be installed on all vehicles driven by the offender AND the offender must obtain ignition interlock license. **7. An ignition interlock license** allows drivers to drive without time and place restrictions and is available to every revoked driver except those who have committed vehicular homicide or great bodily injury by vehicle while under the influence of intoxicating liquor or drugs. **Reinstatement of unrestricted license:** The Motor Vehicle Division will not reinstate an unrestricted driver's license after a DWI conviction or administrative revocation unless a driver has had a minimum of six months of driving with an ignition interlock license with no attempts to circumvent or tamper with the device, 66-5-33.1B(4). An interlock is defined as "a device, approved by the traffic safety bureau, that prevents the operation of a motor vehicle by an intoxicated or impaired person." 66-5-502B. Out-of-state drivers convicted elsewhere of DWI within the last 10 years who apply for a NM license are eligible **ONLY** for an interlock license, according to the same schedule as NM offenders, 66-5-5E. The penalty for driving without an interlock when it's required by license **is the same as driving while revoked for DWI**, 66-5-504, 66-5-39. The penalty for tampering or interfering or causing someone else to tamper or interfere with an ignition interlock device, when it is required under an ignition interlock license, **is the same as driving while revoked for DWI**, 66-5-503 and 504. Licenses remain revoked until offenders apply to reinstate them. For NM MVD form *Affidavit for Ignition Interlock License* go to <http://www.tax.state.nm.us/forms/mvd/mvd10456.pdf> **8. Treatment is mandatory**, as follows, for a *second* or *third* conviction: not less than a 28-day inpatient residential or in-custody substance abuse treatment program approved by the court; not less than a 90-day outpatient treatment program approved by the court; a drug court program approved by the court; OR any other substance abuse treatment program approved by the court. **For any felony DWI conviction**, the Corrections Department is required to provide substance abuse counseling and treatment to the offender, while the offender is in custody and on probation or parole. **9. Probation violations:** On any offense, if the offender violates probation under a suspended or deferred sentence, the judge may impose any sentence originally available and credit shall not be given for time served by the offender on probation, 66-8-102S.