

# THE HIGH COST OF DWI IN NEW MEXICO



DWI Offense	Jail <sup>1</sup>	Fines & Fees <sup>2</sup>	License Revocation	Other
<b>1st</b> misdemeanor	<b>Maximum:</b> 90 days, 66-8-102E <b>Aggravated DWI<sup>5</sup>, Mandatory:</b> Additional 48 hours if convicted of aggravated DWI, 66-8-102D & E <b>Probation Violations:</b> 48 hours (mandatory) if offender fails to comply with any condition of probation. 66 8 102E	<b>Maximum fine:</b> \$300, 66-8-102E <b>Mandatory Fees:</b> Crime Lab Fee: \$65, 31-12-7A Community Fee: \$75, 31-12-7B Corrections Fee: \$10-20, 35-6-1D(1) Court Automation Fee: \$10, 35-6-1D(2) Traffic Safety Fee: \$3, 35-6-1D(3) Judicial Ed. Fee: \$3, 35-6-1D(4) Jury/Witness Fee: \$5, 35-6-1D(5) Brain Injury Fee: \$5, 35-6-1D(6) Court Facilities Fee: \$10-24, 35-6-1D(7) Juvenile Adjudication Fee: \$1, 66-8-116.3F	<b>Administrative Revocation<sup>3</sup>:</b> <b>Under 21:</b> 1 year .02+ BAC, 66-8-111C(2) <b>Age 21+:</b> 6 months .08+ BAC OR .04+ BAC for a CDL, 66-8-111C <b>Any Refusal:</b> 1 year (66-8-111B) Ignition interlock license available 66-5-5037 <b>Revocation after Criminal Conviction<sup>4</sup>:</b> Upon Conviction: 1 year 66-5-29A(2) and 66 5 29C(1) Ignition interlock license required, 1 year.	<b>Mandatory:</b> 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) <sup>6</sup> <b>Court discretion:</b> Treatment, 66-8-102E & K, Probation, up to 1 year, 66 8 102(E) <b>Other Costs <sup>2</sup>:</b> <b>Mandatory Alcohol Screening:</b> \$100-200 <b>License Reinstatement Fee:</b> \$25 Driving on revoked/suspended, \$100 revoked for DWI, 66-5-33.1(A) (B); <b>Interlock license Fees:</b> \$63, 66-5-35, 66-5-44; <b>DWI school:</b> up to \$150 <b>Cost of Interlock:</b> \$960/year or more
<b>2nd</b> misdemeanor	<b>Maximum:</b> 364 days, 66-8-102F <b>Mandatory:</b> 96 hours, 66-8-102F (1) Failure to comply: mandatory extra 7 days for failure to comply with sentence, 66-8-102 F(1) <b>Aggravated DWI<sup>5</sup>, Mandatory:</b> Additional 96 hours jail if convicted of aggravated DWI, 66-8-102D & F(1)	<b>Maximum fine:</b> \$1,000 66-8-102F <b>Mandatory fine:</b> \$500 66-8-102 F(1) All other fines and fees same as first offense	<b>Administrative Revocation<sup>3</sup>:</b> .02+ BAC (under 21) OR .04+ BAC (Commercial DL) OR .08+ BAC OR any refusal: <b>All 1 year revocation due to prior offense or prior revocation</b> 66-8-111B and 66-8-111C, Ignition interlock license available 66-5-5037 <b>Revocation after Criminal Conviction<sup>4</sup>:</b> 2 years, 66-5-29A(3), and 66-5-29C(2) (a), Ignition interlock license required, 2 years, 66-8-102N(2) <sup>6</sup>	<b>Mandatory: Treatment:</b> 66-8-102L <sup>8</sup> <b>Screening:</b> 66-8-102K, Community service, minimum 48 hrs, 66-8-102F(1), Ignition interlock installed for 2 years, 66-8-102N(2) <sup>6</sup> <b>Palm Print<sup>10</sup>:</b> required 29-3-8 <b>Court discretion:</b> Probation, up to 5 years, 66-8-102F <sup>9</sup> <b>All other costs same as first offense.</b> <b>Albuquerque, Dona Ana County, Las Cruces, and Torrance County:</b> Forfeiture of vehicle in civil action
<b>3rd</b> misdemeanor	<b>Maximum:</b> 364 days, 66-8-102F <b>Mandatory:</b> 30 days, 66-8-102F(2) <b>Failure to comply:</b> Mandatory 60 days for failure to comply with sentence, 66-8-102F(2) <b>Aggravated DWI<sup>5</sup>, Mandatory:</b> Additional 60 consecutive days if convicted of aggravated DWI, 66-8-102D & F(2)	<b>Maximum fine:</b> \$1,000 66-8-102F <b>Mandatory fine:</b> \$750 66-8-102F(2) All other fines and fees same as first offense	<b>Administrative Revocation<sup>3</sup>:</b> Same as second offense <b>Revocation after Criminal Conviction<sup>4</sup>:</b> 3 years, 66-5-29A(3) and 66-5-29(C)(2) (b) Ignition interlock	<b>Mandatory: Treatment:</b> 66-8-102L <sup>8</sup> <b>Screening,</b> 66-8-102K, Ignition interlock installed for 3 years, 66-8-102N(3) <sup>6</sup> Community service, minimum 96 hours, 66-8-102F(2) <b>Palm Print<sup>10</sup>:</b> required 29-3-8 <b>Court discretion:</b> Probation, up to 5 years, 66-8-102F <sup>9</sup> <b>All other costs same as first offense.</b> <b>Albuquerque, Dona Ana County, Las Cruces, Santa Fe (City and County) and Torrance County:</b> Forfeiture of vehicle in civil action
<b>4th</b> 4th degree felony	<b>Maximum:</b> 18 months, 66-8-102G <b>Mandatory:</b> 6 months, 66-8-102G	<b>Maximum fine:</b> \$5,000 31-18-15E(9)	<b>Administrative Revocation<sup>3</sup>:</b> Same as second offense <b>Revocation after Criminal Conviction<sup>4</sup>:</b> 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	<b>Mandatory: Treatment:</b> 66-8-102M <sup>8</sup> , Screening, 66-8-102K, Install ignition interlock for life 66-8-102N(4) <sup>6</sup> ; may apply to district court for restoration of license after 5 years if not subsequently convicted of DWI. 66-5-5D, 66-8-102O, <b>Palm Print and DNA<sup>10</sup>:</b> collection required 29-3-8, 29-3-10. <b>All other costs same as first offense.</b> <b>Albuquerque, Dona Ana County, Las Cruces, Santa Fe (City and County) and Torrance County:</b> Forfeiture of vehicle in civil action
<b>5th</b> 4th degree felony	<b>Maximum:</b> 2 years, 66-8-102H <b>Mandatory:</b> 1 year, 66-8-102H	<b>Maximum fine:</b> \$5,000 31-18-15E(9)	<b>Administrative Revocation<sup>3</sup>:</b> Same as second offense <b>Revocation after Criminal Conviction<sup>4</sup>:</b> Same as fourth offense	Same as fourth offense
<b>6th</b> 3rd degree felony	<b>Maximum:</b> 30 months, 66-8-102I <b>Mandatory:</b> 18 months, 66-8-102 I	<b>Maximum fine:</b> \$5,000 31-18-15E(9)	<b>Administrative Revocation<sup>3</sup>:</b> Same as second offense <b>Revocation after Criminal Conviction<sup>4</sup>:</b> Same as fourth offense	Same as fourth offense
<b>7th</b> or subsequent 3rd degree felony	<b>Maximum:</b> 3 years 66-8-102J <b>Mandatory:</b> 2 years 66-8-102J	<b>Maximum fine:</b> \$5,000 31-18-15E(9)	<b>Administrative Revocation<sup>3</sup>:</b> Same as second offense <b>Revocation after Criminal Conviction<sup>4</sup>:</b> Same as fourth offense	Same as fourth offense
<b>Driving While Revoked</b> misdemeanor	<b>Maximum:</b> 364 days, 66-5-39A <b>Mandatory:</b> 7 days, 66-5-39A	<b>Maximum fine:</b> \$1,000 66-5-39A <b>Mandatory fine:</b> \$300 66-5-39A	<b>Administrative Revocation<sup>3</sup>:</b> There is no administrative license sanction for driving while revoked for DWI. <b>Revocation after Criminal Conviction<sup>4</sup>:</b> 1 year added to current revocation period, 66-5-39C	<b>Mandatory:</b> 30 days immobilization of vehicle driven by offender, 66-5-39B  <b>Albuquerque, Dona Ana County, Las Cruces, Santa Fe (City and County) and Torrance County:</b> Forfeiture of vehicle in civil action
<b>DWI Vehicular Homicide</b> 3rd degree felony	<b>Maximum:</b> 6 years, 31-18-15A(7)	<b>Maximum fine:</b> \$ 5,000 31-18-15E(6)	<b>Administrative Revocation<sup>3</sup>:</b> Up to 1 year, no limited license or interlock license permitted, 66-5-35A(5) and 66-5-503C <b>Revocation after Criminal Conviction<sup>4</sup>:</b> 1 year, no limited license or ignition interlock license permitted, 66-5-29A(4) and B.	<b>Mandatory:</b> 4 years extra jail time added for every prior DWI conviction within the last 10 years, 66-8-101D, including tribal convictions, 66-8-101E(2) <b>Palm Print and DNA<sup>10</sup>:</b> collection required 29-3-8, 29-3-10.

\*Vehicular Homicide can also be tried as reckless driving.

**The New Mexico Department of Transportation Traffic Safety Division      Drink. Drive. Go to Jail.**

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 of DWI on or after June 17, 2005 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 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, 66-8-1025. 10. **Palm Prints** are required from anyone committing a felony, facing 6 months in jail or arrested for violating Section 66-8-102 NMSA 1978, NM 17 § 1 29-3-8 A,B,C (2011); **DNA** is required from anyone arrested for a felony, 84 § 1 29-3-10 (2011).

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