

The Law Office of H. Michael Steinberg

2013 Colorado DUI DWAI Penalties

<u>Offense</u>	<u>Penalty</u>		<u>Probation Requirements</u>	<u>Additional Costs</u>
1 st DUI, DUI per se, Habitual User	<p>5 days – 1 Year</p> <p>The court can suspend all jail (per §42-4-1301.3) with alcohol evaluation, Level I or II and monitored abstinence for one year</p> <p>Sentencing alternatives pursuant to §18-1.3-106, such as general work release and in home detention, permitted for entire sentence</p> <p>48 - 96 hours of mandatory useful public service ("UPS) (court has no discretion to suspend the mandatory minimum period of UPS) (per 42-4-1307(3)(III))</p> <p>Up to 2 years of discretionary probation that can include other conditions (per 42-4-1307(c))</p>		Must submit to alcohol and drug evaluation and comply with recommendations (per 42-4-1301.3 (3)(c)(IV))	<p>\$600.00 - \$1,000.00 fine per §42-4-1307(3)(II)</p> <p>\$78.00 cost and surcharge per §24-4.1-119</p> <p>\$100 - \$500 Persistent Drunk Driver Surcharge per §42-4-1307 (10)(b) (may be suspended or waived if court find defendant indigent)</p> <p>\$20.00 surcharge for the Colorado traumatic brain injury trust per §42-4-1307 (10)(c)</p> <p>\$1.00 - \$10.00 surcharge for programs funding efforts addressing alcohol and substance abuse problems among persons in rural areas per § 42-4-1307 (10)(d)(I) (Court may suspend or waive surcharge if person is indigent)</p> <p>Fee not to exceed \$25.00 for victim impact panel per §42-4-1307(12)</p> <p>Costs associated with alcohol and drug evaluation and supervision costs per §42-4-1307(13)</p> <p>Cost not to exceed \$120.00 for useful public service per §42-4-1307(14)</p> <p>Must pay for costs of probation/evaluation</p> <p>Restitution per §18-1.3-205</p>
1 st DUI, DUI per se or DWAI at .20 BAC or above	<p>10 days – 1 year (The court can not suspend the 10 days)</p> <p>Sentencing alternatives pursuant to §18-1.3-106, such as general work release and in</p>		Must submit to alcohol and drug evaluation and comply with recommendations (per 42-4-1301.3 (3)(c)(IV))	<p>\$600.00 - \$1,000.00 fine per §42-4-1307(3)(II)</p> <p>\$78.00 cost and surcharge per §24-4.1-119</p>

	<p>home detention, permitted for entire sentence</p> <p>48 – 96 hours UPS (court has no discretion to suspend the mandatory minimum period of UPS) (per 42-4-13-7(3)(III))</p> <p>Up to 2 years probation (per 42-4-1307(3)(c))</p>		<p>\$100 - \$500 Persistent Drunk Driver Surcharge per §42-4-1307 (10)(b) (may be suspended or waived if court find defendant indigent)</p> <p>\$20.00 surcharge for the Colorado traumatic brain injury trust per §42-4-1307 (10)(c)</p> <p>\$1.00 - \$10.00 surcharge for programs funding efforts addressing alcohol and substance abuse problems among persons in rural areas per § 42-4-1307 (10)(d)(I) (Court may suspend or waive surcharge if person is indigent)</p> <p>Fee not to exceed \$25.00 for victim impact panel per §42-4-1307(12)</p> <p>Costs associated with alcohol and drug evaluation and supervision costs per §42-4-1307(13)</p> <p>Cost not to exceed \$120.00 for useful public service per §42-4-1307(14)</p> <p>Restitution per §18-1.3-205</p>
<p>1st DWAI</p>	<p>2 days – 180 Days</p> <p>The court can suspend all jail with alcohol evaluation, Level I or II, and monitored abstinence for one year</p> <p>Sentencing alternatives pursuant to §18-1.3-106, such as general work release and in home detention, permitted for entire sentence</p> <p>24 – 48 hours UPS (court has no discretion to suspend the mandatory minimum period of UPS)(per 42-4-1307 (4)(a) (III))</p> <p>Up to 2 years probation</p>	<p>Must submit to alcohol and drug evaluation and comply with recommendations (per 42-4-1301.3 (3)(c)(IV))</p>	<p>\$200.00 - \$500.00 fine per §42-4-1307 (4)(a)(II)</p> <p>\$78.00 cost and surcharge per §24-4.1-119</p> <p>\$100 - \$500 Persistent Drunk Driver Surcharge per §42-4-1307 (10)(b) (may be suspended or waived if court find defendant indigent)</p> <p>\$20.00 surcharge for the Colorado traumatic brain injury trust per §42-4-1307 (10)(c)</p> <p>\$1.00 - \$10.00 surcharge for programs funding efforts addressing alcohol and substance abuse problems among persons in rural areas per § 42-4-1307 (10)(d)(I) (Court may suspend or waive surcharge if person is indigent)</p> <p>Fee not to exceed \$25.00 for victim impact panel per §42-4-1307(12)</p> <p>Costs associated with alcohol and drug evaluation and supervision costs per §42-4-1307(13)</p>

				<p>Cost not to exceed \$120.00 for useful public service per §42-4-1307(14)</p> <p>Restitution per §18-1.3-205</p>
<p>1st DWAI at .20 BAC or above</p>	<p>10 days – 1 year (the court cannot suspend the 10 days)</p> <p>Sentencing alternatives pursuant to §18-1.3-106, such as general work release and in home detention, permitted for entire sentence</p> <p>24 – 48 Useful Public Service (42-4-1307 (a)(III))</p> <p>Up to 2 years probation (per 42-4-1307(c))</p>		<p>Must submit to alcohol and drug evaluation and comply with recommendations (per 42-4-1301.3 (3)(c)(IV))</p>	<p>\$200 - \$500 fine per §42-4-1307 (a)(4)(II)</p> <p>\$78.00 cost and surcharge per §24-4.1-119</p> <p>\$100 - \$500 Persistent Drunk Driver Surcharge per §42-4-1307 (10)(b) (may be suspended or waived if court find defendant indigent)</p> <p>\$20.00 surcharge for the Colorado traumatic brain injury trust per §42-4-1307 (10)(c)</p> <p>\$1.00 - \$10.00 surcharge for programs funding efforts addressing alcohol and substance abuse problems among persons in rural areas per § 42-4-1307 (10)(d)(I) (Court may suspend or waive surcharge if person is indigent)</p> <p>Fee not to exceed \$25.00 for victim impact panel per §42-4-1307(12)</p> <p>Costs associated with alcohol and drug evaluation and supervision costs per §42-4-1307(13)</p> <p>Cost not to exceed \$120.00 for useful public service per §42-4-1307(14)</p> <p>Restitution per §18-1.3-205</p>

<u>Offense</u>	<u>Minimum Sentence</u> <u>Maximum Sentence</u>		<u>Probation Requirements</u>	<u>Additional Costs</u>
<p>DUI, DUI per se, Habitual User DWAI AND has, within his/her lifetime, <u>one prior conviction for</u>: DUI, DUI per se, DWAI, Habitual User, Vehicular Homicide (based on under the influence), Vehicular Assault (based on under the influence) Felony HTO (based on DUI or DWAI), or DUR (alcohol related)</p>	<p>10 days – 1 year (mandatory, must be consecutive days; during the mandatory 10-day period of imprisonment, the defendant shall not be eligible for earned time, good time (per §17-26-109, C.R.S) or trusty prisoner status (per §17-26-115 C.R.S)). Will receive credit for any time that he or she served in custody for the violation prior to his or her conviction</p> <p>Sentencing alternatives pursuant to §18-1.3-106, such as general work release and in home detention, permitted for entire sentence. Day for day credit pursuant to §18-1.3-106(12) is not permitted for any sentence to a county jail alternative program.</p> <p>AND</p> <p>As a condition of probation, 1 year suspended sentence of jail (part or all of this can be imposed at a revocation hearing, with no credit for original jail sentence imposed)</p> <p>48 – 120 hours Useful Public Service (per 42-4-1307 (5)(a) (III))</p> <p>Minimum 2 years – maximum 4 years probation (per 42-4-13-7 (5)(a)(IV))</p> <p>(period of probation begins immediately upon commencement of any part of the sentence that is imposed upon the person)</p>		<p>Level II alcohol and drug driving safety education or treatment program (per 42-4-1301.3 (3)(c)(IV))</p> <p>Person can be ordered into court at any time during probation</p> <p>Continuous alcohol monitoring for up to 4 years</p> <p>May require Ignition interlock device (“IID”) during period of probation at person’s own expense</p>	<p>\$600.00 - \$1,500.00 fine per §42-4-1307 (5)(a)(II)</p> <p>\$78.00 cost and surcharge per §24-4.1-119</p> <p>\$100 - \$500 Persistent Drunk Driver Surcharge per §42-4-1307 (10)(b) (may be suspended or waived if court find defendant indigent)</p> <p>\$20.00 surcharge for the Colorado traumatic brain injury trust per §42-4-1307 (10)(c)</p> <p>\$1.00 - \$10.00 surcharge for programs funding efforts addressing alcohol and substance abuse problems among persons in rural areas per § 42-4-1307 (10)(d)(I) (Court may suspend or waive surcharge if person is indigent)</p> <p>Fee not to exceed \$25.00 for victim impact panel per §42-4-1307(12)</p> <p>Costs associated with alcohol and drug evaluation and supervision costs per §42-4-1307(13)</p> <p>Cost not to exceed \$120.00 for useful public service per §42-4-1307(14)</p> <p>Restitution per §18-1.3-205</p>

<u>Offense</u>	<u>Minimum Sentence</u>		<u>Probation Requirements</u>	<u>Additional Costs</u>
<p>DUI, DUI per se, Habitual User DWAI AND <u>within 5 years has one prior conviction for</u>: DUI, DUI per se, DWAI, Habitual User, Vehicular</p>	<p>10 days – 1 year (the court cannot suspend the 10 days) For the 10 days: must be served consecutive, no earned time, no</p>		<p>Minimum 2 years – maximum 4 years probation</p> <p>(2 years is mandatory to commence at the start of the</p>	<p>\$600.00 - \$1,500.00 fine per §42-4-1307 (5)(a)(II)</p>

<p>Homicide (based on under the influence), Vehicular Assault (based on under the influence), Felony HTO (based on DUI or DWAI) or DUR (alcohol related)</p>	<p>good time, no trusty prisoner status;</p> <p>Per §42-4-1307 (5)(b) No sentencing alternatives pursuant to §18-1.3-106, such as general work release and in home detention, permitted for the minimum mandatory jail except for general work release IF the county has such a program and at the time of sentencing defendant was employed, enrolled in school, or enrolled in Level II treatment. Day for day credit pursuant to §18-1.3-106(12) is not permitted for any sentence to a county jail program.</p> <p>AND</p> <p>1 year suspended sentence of jail (part or all of this can be imposed at a revocation hearing, with no credit for original jail sentence imposed)</p> <p>48-120 Useful Public Service Hours</p> <p>Minimum 2 years – maximum 4 years probation</p> <p>(2 years is mandatory to commence at the start of the sentence- condition of 1 year suspended jail required (if imposed no credit to be given for any period of imprisonment previously served)</p>		<p>sentence- condition of 1 year suspended jail required (if imposed no credit to be given for any period of imprisonment previously served)</p> <p>48 – 120 UPS</p> <p>Level II alcohol and drug driving safety education or treatment program (per 42-4-1301.3 (3)(c)(IV))</p> <p>Person can be ordered into court at any time during probation</p> <p>Continuous alcohol monitoring for up to 4 years</p> <p>May require Ignition interlock device ("IID") during period of probation at person's own expense</p>	<p>\$78.00 cost and surcharge per §24-4.1-119</p> <p>\$100 - \$500 Persistent Drunk Driver Surcharge per §42-4-1307 (10)(b) (may be suspended or waived if court find defendant indigent)</p> <p>\$20.00 surcharge for the Colorado traumatic brain injury trust per §42-4-1307 (10)(c)</p> <p>\$1.00 - \$10.00 surcharge for programs funding efforts addressing alcohol and substance abuse problems among persons in rural areas per § 42-4-1307 (10)(d)(I) (Court may suspend or waive surcharge if person is indigent)</p> <p>Fee not to exceed \$25.00 for victim impact panel per §42-4-1307(12)</p> <p>Costs associated with alcohol and drug evaluation and supervision costs per §42-4-1307(13)</p> <p>Cost not to exceed \$120.00 for useful public service per §42-4-1307(14)</p> <p>Restitution per §18-1.3-205</p>
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<u>Offense</u>	<u>Minimum Sentence –</u> <u>Maximum Sentence</u>		<u>Probation Requirements</u>	<u>Additional Costs</u>
<p>DUI, DUI per se, Habitual User DWAI AND has, <u>within his/her lifetime, two or more prior convictions for:</u> DUI, DUI per se, DWAI, Habitual User, Vehicular Homicide (based on under the influence), Vehicular Assault (based on under the influence), Felony HTO (based on DUI or DWAI), or DUI (alcohol related)</p>	<p>60 days – 1 year (The court cannot suspend the 60 days) For the 60 days: must be served consecutive, no earned time, no good time, no trusty prisoner status, no sentencing alternatives pursuant to §18-1.3-106, such as general work release and in home detention.</p>		<p>Level II alcohol and drug driving safety education or treatment program (per 42-4-1307 (7)(b)(I) and 42-4-1301.3 (3)(c)(IV))</p> <p>Person can be ordered into court at any time during probation (per 42-4-1307(7)(b)(IV))</p>	<p>\$600.00 - \$1,500.00 fine per §42-4-1307 (6)(a)(II)</p> <p>\$78.00 cost and surcharge per §24-4.1-119</p> <p>\$100 - \$500 Persistent Drunk Driver Surcharge per §42-4-1307 (10)(b) (may be suspended</p>

	<p>Once minimum jail is served, general work release is permitted IF the county has such a program and at the time of sentencing defendant was employed, enrolled in school, or enrolled in Level II treatment. Day for day credit pursuant to §18-1.3-106(12) is not permitted for any sentence to a county jail alternative program.</p> <p>AND</p> <p>1 year suspended sentence of jail (part or all of this can be imposed at a revocation hearing, with no credit for original jail sentence imposed)</p> <p>48 – 120 Useful Public Service (per 42-4-1307 (a)(III))</p> <p>Minimum 2 years (per 42-4-13-7 (6)(a)(C)(IV)– maximum 4 years probation</p> <p>(2 years is mandatory to commence at the start of the sentence)</p>		<p>Continuous alcohol monitoring for up to 4 years (per 42-4-1307 (7)(b)(VI))</p> <p>May require Ignition interlock device (“IID”) during period of probation at person’s own expense per §42-4-1307 (7)(b) (V)</p>	<p>or waived if court find defendant indigent)</p> <p>\$20.00 surcharge for the Colorado traumatic brain injury trust per §42-4-1307 (10)(c)</p> <p>\$1.00 - \$10.00 surcharge for programs funding efforts addressing alcohol and substance abuse problems among persons in rural areas per § 42-4-1307 (10)(d)(I) (Court may suspend or waive surcharge if person is indigent)</p> <p>Fee not to exceed \$25.00 for victim impact panel per §42-4-1307(12)</p> <p>Costs associated with alcohol and drug evaluation and supervision costs per §42-4-1307(13)</p> <p>Cost not to exceed \$120.00 for useful public service per §42-4-1307(14)</p> <p>Restitution per §18-1.3-205</p>
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