

PENNSYLVANIA DUI LAW GRADING AND SENTENCING GUIDE

*Offenses involving a passenger under the age of 18 shall be at least an M1, F3 if 2 or more priors.

*With a prior conviction for Homicide by Vehicle While DUI, all offenses shall be at least an F3.

DUI Law Sections Violated	1 st in 10 YEARS	2 nd in 10 YEARS	3 rd in 10 YEARS	4 th in 10 YEARS
<p style="text-align: center;">TIER I</p> <p>§3802 (a)(1) Incapable of Safe Driving</p> <p>1. No BAC available 2. No Implied Consent Violation 3. No Injury or Damage (accident)</p> <p>§3802 (a)(2) BAC .08% to less than .10%</p> <p>1. No Injury or Damage (accident)</p>	<p>Ungraded Misdemeanor Mandatory 6 months' Probation Fine \$300 AHSS No License Suspension, no interlock Full D&A Assessment if indicated by CRN</p>	<p>Ungraded Misdemeanor Jail 5 days to 6 months Fine \$300 to \$2,500 AHSS License Suspension - 12 months Interlock Eligibility after 6 months Ignition Interlock - 1 year Full D&A Assessment</p>	<p>Misdemeanor 2 Jail 10 days to 2 years Fine \$500 to \$5,000 License Suspension - 12 months Interlock Eligibility after 6 months Ignition Interlock - 1 year Full D&A Assessment</p>	<p>Felony 3 Jail 10 days to 7 years Fine \$500 to \$15,000 License Suspension - 18 months Interlock Eligibility after 9 months Ignition Interlock - 1 year Full D&A Assessment DNA Sampling</p>
<p style="text-align: center;">TIER II</p> <p>§3802 (b) BAC .10% to less than .16%</p> <p>§3802 (a)(1)/(a)(2) with damage or injury</p> <p>§3802 (e) Minors .02% or greater</p> <p>§3802 (f) Commercial .04% or greater</p> <p>§3802 (f) School vehicles .02% or greater</p> <p>§3802 (f) Commercial/School Vehicles incapable of safe driving</p>	<p>Ungraded Misdemeanor Jail 48 hours to 6 months Fine \$500 to \$5,000 AHSS License Suspension - 12 months Interlock Eligibility - immediately Ignition Interlock - 1 year Full D&A Assessment if indicated by CRN</p>	<p>Ungraded Misdemeanor Jail 30 days to 6 months Fine \$750 to \$5,000 AHSS License Suspension - 12 months Interlock Eligibility after 6 months Ignition Interlock - 1 year Full D&A Assessment</p>	<p>Misdemeanor 1 Jail 90 days to 5 years Fine \$1,500 to \$10,000 License Suspension - 18 months Interlock Eligibility after 9 months Ignition Interlock - 1 year Full D&A Assessment DNA Sampling</p>	<p>Felony 3 Jail 1 to 7 years Fine \$1,500 to \$15,000 License Suspension - 18 months Interlock Eligibility after 9 months Ignition Interlock - 1 year Full D&A Assessment DNA Sampling</p>
<p style="text-align: center;">TIER III</p> <p>§3802 (c) BAC .16 or higher</p> <p>§3802 (a)(1) with an Implied Consent Violation*</p> <p>*Breath test refusal or refusal to submit to a valid search warrant.</p> <p>§3802 (d) Controlled Substances</p>	<p>Ungraded Misdemeanor Jail 72 hours to 6 months Fine \$1,000 to \$5,000 AHSS License Suspension - 12 months Interlock Eligibility - immediately Ignition Interlock - 1 year Full D&A Assessment</p>	<p>Misdemeanor 1 Jail 90 days to 5 years Fine \$1,500 to \$10,000 AHSS License Suspension - 18 months Interlock Eligibility after 9 months Ignition Interlock - 1 year Full D&A Assessment DNA Sampling</p>	<p>Felony 3 Jail 1 to 7 years Fine \$2,500 to \$15,000 License Suspension - 18 months Interlock Eligibility after 9 months Ignition Interlock - 1 year Full D&A Assessment DNA Sampling</p>	<p>Felony 2 Jail 1 to 10 years Fine \$2,500 to \$25,000 License Suspension - 18 months Interlock Eligibility after 9 months Ignition Interlock - 1 year Full D&A Assessment DNA Sampling</p>
<p>ARD - Accelerated Rehabilitative Disposition</p> <p>A DUI offense is eligible for ARD under the following circumstances:</p> <ul style="list-style-type: none"> ▪ It is a first offense within ten years ▪ No person, other than the offender, was killed or seriously injured ▪ There was no passenger in the offender's vehicle under the age of 14 at the time of the offense 	<p>Mandatory License Suspension for ARD is as follows:</p> <ul style="list-style-type: none"> ▪ No suspension if BAC is under .10% and offender is not a minor ▪ A suspension of 30 days if BAC .10% to < .16% ▪ A suspension of 60 days if BAC .16% or greater, BAC unknown, DUI involving drugs, DUI involving a crash, or violations of Implied Consent ▪ A suspension of 90 days if the offender is a minor ▪ Eligible to petition for the Ignition Interlock Limited License 		<p>Mandatory Conditions of ARD for a DUI Offense:</p> <ul style="list-style-type: none"> ▪ AHSS ▪ Probation supervision of a minimum of 6 months up to a maximum of 12 months ▪ Full D&A Assessment, if BAC .16 or greater or if CRN Profile report indicates the need for further evaluation for D&A counseling or treatment ▪ Mandatory license suspension as indicated ▪ Restitution to any person who suffered a financial loss ▪ Payment of any other fee, surcharge or cost required by law including fees for AHSS, evaluation and treatment ▪ Any other condition established by the Court 	
<p>All penalties include up to 150 hours of community service and a Court Reporting Network (CRN) drug and alcohol evaluation.</p>	<p>When a Full Assessment is completed and the Assessment indicates a need for counseling or treatment, the Court is required to order treatment as indicated by the Assessment. When the Court orders treatment or counseling, the Court is required to order the statutory maximum as the top end of the Offender's sentence.</p>		<p>A Full Drug and Alcohol Assessment is required for a DUI Offender prior to sentence if any one of the following applies:</p> <ol style="list-style-type: none"> 1. The Offender has a prior DUI offense within 10 years 2. The Court Reporting Network Evaluation indicates a need for further evaluation for counseling or treatment 3. The Offender's BAC was .16 or greater 	
<p>Implied Consent</p> <p>Refusal to Submit to Chemical Testing for Violation of §3802</p> <p>Refusal to Submit to Chemical Testing for Violations of §1543(b), §1543(b) (1.1) or Ignition Interlock Violation of §3808 (a)(2) with alcohol or drugs.</p> <p>1st Offense:</p> <p>License suspension 12 months Ignition Interlock eligibility after 6 months Ignition Interlock 1 year</p> <p>Second or Subsequent Offense:</p> <p>License suspension 18 months Ignition Interlock eligibility after 9 months Ignition Interlock 1 year</p>	<p>Operating Without Required Ignition Interlock – 3808(a)</p> <p>(M) Fine \$300 up to \$1,000 and not more than 90 days jail No license suspension, Ignition Interlock extended 1 year from conviction</p> <p>Second Violation – (12 Month suspension) Additional 1 year Ignition Interlock requirement</p> <p>If BAC .025% or above, or Schedule I, or Schedule II, or III (Not Prescribed)</p> <p>(M3) Mandatory Fine \$1,000 and minimum of 90 days incarceration No license suspension, Ignition Interlock extended 1 year from conviction</p> <p>Second Violation – (12 Month suspension) Additional 1 year Ignition Interlock requirement</p>		<p>Tampering with Ignition Interlock System – 3808(b)</p> <p>(M) Fine \$300 up to \$1,000 and not more than 90 days jail No license suspension, Ignition Interlock extended 1 year from conviction</p> <p>Second Violation – (12 months suspension) Additional 1 year Ignition Interlock requirement</p>	