



The High Cost of DWI in New Mexico 2006

The New Mexico Department of Transportation, Traffic Safety Bureau

DWI Offense	Jail ¹	Fines and Fees ²	License Revocation ³		Other
			Administrative	Criminal	
1st Misdemeanor 66-8-102E	Maximum: 90 days Mandatory: 48 hours if offender fails to comply with any condition of probation. 66-8-102E	Maximum fine: \$500 66-8-102E License fee: \$100 66-5-33.1 Crime lab fee: \$65 31-12-7A Community fee: \$75 31-12-7B Interlock license fee: \$45, 66-5-35C Alcohol screening: \$100-200 DWI school: up to \$150 Ignition interlock fee: \$960/year or more Corrections fee: \$20, 35-6-1D(1)	Under 21 (.02+ BAC) 1 year, 66-8-111C(2) Age 21+ (.08+ BAC) and Commercial Driver (CDL) (.04+ BAC) Both 6 months, 66-8-111C No limited license 66-5-35A(2)⁴ Refusal: 1 year 66-8-111B Ignition interlock license available 66-5-503 ⁷	Upon Conviction: 1 year 66-5-29A(2) and 66-5-29C(1) No limited license 66-5-35A(3) ⁴ Ignition interlock license required 66-8-102N(1) ⁶ The criminal <i>per se</i> standia is .08, but .04 for commercial driver licenses (CDL).	Mandatory: Screening, 66-8-102E & K DWI school, 66-8-102E Community service, 24-48 hrs, 66-8-102E Ignition Interlock installed for 1 year, 66-8-102N(1) ⁶ Court discretion: Treatment, 66-8-102E & K; Probation, up to 1 year, 66-8-102E ⁹ Aggravated DWI⁵, Mandatory: Jail: Additional 48 hours jail if convicted of aggravated DWI, 66-8-102D & E
2nd Misdemeanor 66-8-102F	Maximum: 364 days Mandatory: 96 hours Also mandatory extra 7 days if offender fails to comply with sentence 66-8-102F(1)	Maximum fine: \$1,000 66-8-102F Mandatory fine: \$500 66-8-102F(1) All other costs and fees same as first offense	.02+ BAC (under 21) .04+ BAC(Commercial DL) .08+ BAC or any refusal: All 1 year revocation 66-8-111B and 66-8-111C No limited license 66-5-35A(2)⁴ Ignition interlock license available 66-5-503 ⁷	Upon Conviction: 2 years 66-5-29A(3), and 66-5-29C(2)(a) No limited license 66-5-35A(3) Ignition interlock license required 66-8-102N(2) ⁶	Mandatory: Treatment: 66-8-102L ⁸ Screening: 66-8-102K Community service, 48 hrs, 66-8-102F(1) Ignition interlock installed for 2 years, 66-8-102N(2) ⁶ Court discretion: Probation, up to 5 years, 66-8-102F ⁹ Aggravated DWI⁵, Mandatory: Additional 96 hours jail if convicted of aggravated DWI, 66-8-102D & F(1) Albuquerque, Dona Ana County, Las Cruces: Forfeiture of vehicle in civil action
3rd Misdemeanor 66-8-102F	Maximum: 364 days Mandatory: 30 days Also mandatory 60 days offender fails to comply with sentence 66-8-102F(2)	Maximum fine: \$1,000 66-8-102F Mandatory fine: \$750 66-8-102F(2) All other costs and fees same as first offense	Same as second offense	Upon Conviction: 3 years 66-5-29A(3) and 66-5-29C(2)(b) No limited license 66-5-35A(3) Ignition interlock license required 66-8-102N(3) ⁷	Mandatory: Treatment: 66-8-102L ⁸ Screening, 66-8-102K Ignition interlock installed for 3 years, 66-8-102N(3) ⁶ Community service, 96 hours, 66-8-102F(2) Court discretion: Probation, up to 5 years, 66-8-102F ⁹ Aggravated DWI⁵, Mandatory: Jail: Additional 60 consecutive days jail if convicted of aggravated DWI, 66-8-102D & F(2) Albuquerque, Dona Ana County, Las Cruces, Torrance County: Forfeiture of vehicle in civil action
4th Degree Felony 66-8-102G	Maximum: 18 months 66-8-102G Mandatory: 6 months 66-8-102G	Maximum fine: \$5,000 31-18-15E(7) All other costs and fees same as first offense	Same as second offense	Upon Conviction: The remainder of the offender's life Ignition interlock license required, 66-5-29A(3) & 66-5-29C(2)(c) Person may apply to district court for restoration of license after five years if not subsequently convicted of DWI. 66-5-5D, 66-8-102C	Mandatory: Treatment: 66-8-102M ⁸ Screening, 66-8-102K Install ignition interlock for the remainder of the offender's life 66-8-102N(4) ⁶ Offender may apply to district court every five years for removal of the interlock, which can be removed for good cause, 66-8-102O Albuquerque, Dona Ana County, Las Cruces, Torrance County: Forfeiture of vehicle in civil action
5th 4th Degree Felony 66-8-102H	Maximum: 2 years 66-8-102H Mandatory: 1 year 66-8-102G	Maximum fine: \$5,000 31-18-15E(7) All other costs and fees same as first offense	Same as second offense	Same as fourth offense	Same as fourth offense Albuquerque, Dona Ana County, Las Cruces, Torrance County: Forfeiture of vehicle in civil action
6th 3rd Degree Felony 66-8-102I	Maximum: 30 months 66-8-102I Mandatory: 18 months 66-8-102I	Maximum fine: \$5,000 31-18-15E(7) All other costs and fees same as first offense	Same as second offense	Same as fourth offense	Same as fourth offense Albuquerque, Dona Ana County, Las Cruces, Torrance County: Forfeiture of vehicle in civil action
7th or subsequent 3rd Degree Felony 66-8-102J	Maximum: 3 years 66-8-102J Mandatory: 2 years 66-8-102J	Maximum fine: \$5,000 31-18-15E(7) All other costs and fees same as first offense	Same as second offense	Same as fourth offense	Same as fourth offense Albuquerque, Dona Ana County, Las Cruces, Torrance County: Forfeiture of vehicle in civil action
Driving While Revoked Misdemeanor 66-5-39	Maximum: 364 days 66-5-39A Mandatory: 7 days, 66-5-39A	Maximum fine: \$1,000 66-5-39A Mandatory fine: \$300 66-5-39A	There is no administrative sanction for driving while revoked for DWI.	1 year added to current revocation period, 66-5-39	30 days immobilization of vehicle driven by offender, 66-5-39B Albuquerque, Dona Ana County, Las Cruces, Torrance County: Forfeiture of vehicle in civil action
DWI Vehicular Homicide 3rd Degree Felony	Maximum: 6 years 31-18-15A(5)	Maximum fine: \$ 5,000 31-18-15E(5)	Depends on number of prior DWI offenses, no limited license or interlock license allowed 66-5-35A(3) and 66-5-503C ⁷	Depends on number of prior DWI offenses. No limited license or interlock license allowed.	Mandatory: 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)

1. **Mandatory jail time** must be consecutively served. 2. **Fines and fees** do not include increased insurance costs, treatment, lost wages, towing and storage, court costs and attorney fees. 3. **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. Licenses remain revoked until offenders apply to reinstate them. Note that a violation of the Implied Consent Act is not part of the criminal sentence. 4. **Limited licenses** are no longer available to persons who have been convicted of DWI. 5. **Aggravated DWI consists of:** (1) Refusal to take a BAC test at time of arrest for DWI; **OR** (2) Driving with a BAC of .16 or higher; **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 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; 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. The penalty for driving without an interlock when it's required by license is the same as driving while revoked, 66-5-504, 66-5-39. For an ignition interlock license application go to <http://dvl.urn.edu/rel/ign/mv10292.cdf>. 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, 66-8-102S

