



The High Cost of DWI In New Mexico 2007-2008



The New Mexico Department of Transportation, Traffic Safety Bureau

Offense	Jail ¹	Fines and Fees ²	License Revocation		Other
			Administrative ³	Criminal ⁴	
1st Misdemeanor	Maximum: 90 days 66-8-102E 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 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) Ignition interlock license required 66-8-102N(1) ⁶ The criminal per se standard is .08, (.04 for CDL) tested within 3 hours of driving when the BAC is from alcohol consumed before or while driving. ⁴	Mandatory: 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 Court discretion: Treatment, 66-8-102E & K; Probation, up to 1 year, 66-8-102E ⁹ Aggravated DWI ⁵ , Mandatory: Jail: Additional 48 hours jail if convicted of aggravated DWI, 66-8-102D & E
2nd	Maximum: 364 days 66-8-102F	Maximum fine: \$1,000 66-8-102F Mandatory fine: \$500 66-8-102F(1)	.02+ BAC (under 21) .04+ BAC (Commercial DL) .08+ BAC or any refusal: All 1 year revocation	Upon Conviction: 2 years 66-5-29A(3), and 66-5-29C(2)(a)	Mandatory: Treatment: 66-8-102L ⁸ Screening: 66-8-102K Community service, minimum 48 hrs,

Offense	Jail ¹	Fines and Fees ²	License Revocation Administrative ³ Criminal ⁴		Other
Misdemeanor	Mandatory: 96 hours Also mandatory extra 7 days if offender fails to comply with sentence 66-8-102F(1)	All other costs and fees same as first offense	66-8-111B and 66-8-111C Ignition interlock license available 66-5-503 ⁷	Ignition interlock license required 66-8-102N(2) ⁶	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, Torrance County: Forfeiture of vehicle in civil action
3rd Misdemeanor	Maximum: 364 days 66-8-102F Mandatory: 30 days Also mandatory 60 days if 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 6-5-29C(2)(b) Ignition interlock license required 66-8-102N (3) ⁶	Mandatory: Treatment: 66-8-102L ⁸ Screening, 66-8-102K Ignition interlock installed for 3 years, 66-8-102N(3) ⁶ Community service, minimum 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, Santa Fe (City and County): Forfeiture of vehicle in civil action

Offense	Jail ¹	Fines and Fees ²	License Revocation Administrative ³ Criminal ⁴		Other
<p>4th 4th Degree Felony</p>	<p>Maximum: 18 months 66-8-102G</p> <p>Mandatory: 6 months 66-8-102G</p>	<p>Maximum fine: \$5,000 31-18-15E(9)</p> <p>All other costs and fees same as first offense</p>	<p>Same as second offense</p>	<p>Upon Conviction: The remainder of the offender's life</p> <p>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, 66-8-102O</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 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, Santa Fe (City and County): Forfeiture of vehicle in civil action</p>
<p>5th 4th Degree Felony</p>	<p>Maximum: 2 years 66-8-102H</p> <p>Mandatory: 1 year 66-8-102H</p>	<p>Maximum fine: \$5,000 31-18-15E(9)</p> <p>All other costs and fees same as first offense</p>	<p>Same as second offense</p>	<p>Same as fourth offense</p>	<p>Same as fourth offense</p>
<p>6th 3rd Degree Felony</p>	<p>Maximum: 30 months 66-8-102I</p> <p>Mandatory: 18 months 66-8-102I</p>	<p>Maximum fine: \$5,000 31-18-15E(9)</p> <p>All other costs and fees same as first offense</p>	<p>Same as second offense</p>	<p>Same as fourth offense</p>	<p>Same as fourth offense</p>

Offense	Jail ¹	Fines and Fees ²	License Revocation		Other
			Administrative ³	Criminal ⁴	
7th or subsequent 3 rd Degree Felony	Maximum: 3 years 66-8-102J Mandatory: 2 years 66-8-102J	Maximum fine: \$5,000 31-18-15E(9) All other costs and fees same as first offense	Same as second offense	Same as fourth offense	Same as fourth offense
Driving While Revoked Misdemeanor	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, 66-5-39C	Mandatory: 30 days immobilization of vehicle driven by offender, 66-5-39B Albuquerque, Dona Ana County, Las Cruces, Torrance County, Santa Fe (City and County): Forfeiture of vehicle in civil action
DWI Vehicular Homicide 3 rd Degree Felony	Maximum: 6 years 31-18-15A(7)	Maximum fine: \$ 5,000 31-18-15E(6)	Depends on number of prior DWI offenses, no limited license or interlock license allowed 66-5-35A(5) 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)

Footnotes on next page.

Footnotes:

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. 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. Testing BAC after 3 hours:** 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 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. 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**, 66-5-504, 66-5-39. Licenses remain revoked until offenders apply to reinstate them. 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, carries the same penalties as driving while revoked for DWI, 66-5-503 and 504. For an ignition interlock license application go to <http://ipl.unm.edu/traf/pubs/mvd10792.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, 66-8-102S.