



Traffic Violations

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- [Background](#)
- [Types of Traffic Violations](#)
- [Effect of Traffic Violations](#)
- [Drunk Driving](#)
- [Additional Resources](#)
- [Organizations](#)

Background

Traffic violations followed the invention of the automobile: the first traffic ticket in the United States was allegedly given to a New York City cab driver on May 20, 1899, for going at the breakneck speed of 12 miles per hour. Since that time, countless citations have been issued for traffic violations across the country, and states have reaped untold billions of dollars of revenue from violators.

Traffic violations can be loosely defined as any acts that violates a state or municipalities traffic laws. Most laws are local, though the federal government does regulate some traffic aspects, and it can deny federal money in order to coerce states to pass particular traffic laws. Today, motorists can find themselves faced with dozens of traffic laws, depending on where they are driving. These traffic laws vary by state, city, highway, and region

Types of Traffic Violations

Traffic violations are generally divided into major and minor types of violations. The most minor type are parking violations, which are not counted against a driving record, though a person can be arrested for unpaid violations. Next are the minor driving violations, including speeding and other moving violations, which usually do not require a court appearance. Then there are more serious moving violations, such as reckless driving or leaving the scene of an accident. Finally there is drunk driving, also called Driving Under the Influence (DUI), which is a classification onto itself.

All but the most serious traffic violations are generally prosecuted as [MISDEMEANOR](#) charges; however, repeat offenses can be prosecuted at the level of felonies. As misdemeanor charges, most traffic violations require payment of a fine but no jail time. State laws do not allow a judge to impose a jail sentence for speeding or failure to stop at a signal. However, more serious traffic violations, such as drunk or reckless driving, can result in jail time at the judge's discretion.

The most common type of traffic violation is a speed limit violation. Speed limits are defined by state. In 1973, Congress implemented a 55-miles-per-hour speed limit in order to save on energy costs, but these were abolished in 1995. Since then, most states have implemented 65-mph maximum speed limits. There are two types of speed limits: fixed maximum, which make it unlawful to exceed the speed limit anywhere at any time, and prima facie, which allow drivers to prove in certain cases that exceeding the speed limit was not unsafe and, therefore, was lawful.

Another common type of traffic violation is a seat belt violation. Most states now require adults to wear seatbelts when they drive or sit in the front seat, and all states require children to be restrained using seat belts. New York was the first state to make seat belts mandatory, in 1984.

Effect of Traffic Violations

The effect of a traffic violation depends on the nature of the offense and on the record of the person receiving the traffic violation. Beyond the possibilities of fines and/or jail, other consequences of traffic violations can include traffic school, higher insurance premiums, and the suspension of driving privileges.

Fines

Fines for traffic violations depend on the violation. Typically, states will have standard fines for a specific group of moving violations, with the fines increasing with the seriousness of the violation. Some states will also increase the fine if violators have other violations on their record. Courts will occasionally reduce fines on violations while still recording the violation as part of the violator's record.

Traffic School

Virtually every state allows perpetrators of a traffic violation to attend some sort of traffic school in return for the violation being wiped off their records. Traffic school generally consists of a 6-8 hour class that describes the dangers of committing traffic violations. Different states have different procedures regarding their traffic schools. Some allow traffic schools in place of paying the fine; others require payment of the fine in addition to the traffic school cost of admission. Some allow traffic violators to go to traffic school once a year, whereas others require a longer waiting period between traffic school attendances. Also, the type of violation may affect whether the violator is allowed to go to traffic school: the more serious the violation, the less likely the violator will be allowed to go to traffic school to wipe it off their record.

Procedures for signing up for traffic school also differ from state to state: some states allow drivers to sign up with the school directly, others have them go through the clerk of court or judge in order to sign-up. Most states require drivers to go to a specific location for traffic school, although some, such as California, now offer an Internet option that allows a student to attend traffic school without leaving the comfort of home

Suspension of Driving Privileges

A traffic violation not wiped out by traffic school will count against the suspension of driving privileges. In most states, suspension of driving privileges is calculated using a point system: the more points drivers have, the more likely it is their driving privileges could be suspended. Some states calculate the number of violations drivers have in a straightforward manner; if drivers reach the requisite number of violations within a certain time frame, their privileges are automatically suspended. Age can also be a factor in determining when a driver's license is suspended. Minor drivers typically see their licenses suspended with fewer violations than adults.

All states entitle persons facing suspended licenses to receive a [HEARING](#), typically in front of a hearing officer for that state's Department of Motor Vehicles. At that point, the person whose license is to be suspended may offer an explanation for why the violations in question occurred. The hearing officer usually has discretion in all but the most extreme cases (i.e. drunk driving) to reduce, defer the suspension, or cancel it entirely.

Insurance Premiums

Beyond the suspension of driving privileges, traffic violators typically can face higher insurance. Insurance companies will raise insurance rates for [HABITUAL](#) violators of traffic law. In many cases insurance rates will go up for as little as two violations within a three-year period. Different insurance companies follow different procedures. It is up to the discretion of the insurance company whether to raise rates as a result of a traffic violation.

Drunk Driving

Among driving violations, drunk driving is usually considered a special case. Called by various names, including Driving Under the Influence (DUI), Driving While Intoxicated (**DWI**) and Operating While Intoxicated (OWI), drunk driving usually results in stronger fines and penalties than normal driving violations.

Drunk driving means that the persons driving have consumed enough alcohol to impair their driving abilities. This is usually determined either by a blood-alcohol test, some other sobriety test, or just the observations of the officer. The test is subjective: just because drivers do not feel drunk does not mean they cannot be arrested for drunk driving.

A blood alcohol test measures the amount of alcohol in a person's blood. This can be done directly, through drawing blood from the person, or it can be done with instruments measuring breath or urine. Some states allow a choice as to which test to take, others do not. If persons test above the level of [INTOXICATION](#) for their state (.08 to .10 percent, depending on the state), they are considered drunk and a prima facie case of drunk driving has been shown.

A blood alcohol test can be refused, but the consequences can be severe. In most states, refusal to take a blood alcohol test is prima facie [EVIDENCE](#) of drunk driving. In some states refusal to take the test can result in the automatic revocation of a license for a year.

Whether a driver is drunk can also be measured using a sobriety test, such as requiring the driver to walk a straight line, stand on one leg, or recite a group of letters or numbers. A driver failing any of these tests can usually be arrested for drunk driving, though often the police officer requests a blood alcohol test as a follow up. The officer can also base the arrest on simple observation of the driver's behavior, although a request for a blood alcohol test is a standard follow-up in these instances as well.

Currently 31 states require a level of .08 or above in order for drivers to be considered intoxicated. They are: Alabama, Alaska, Arizona, Arkansas, California, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Missouri, Nebraska, New Hampshire, New Mexico, North Carolina, Oklahoma, Oregon, Rhode Island, Texas, Utah, Vermont, Virginia, Washington, and the District of Columbia. The other states all require .10 or above in order for a driver to be considered intoxicated. Currently all states have zero tolerance laws that make it illegal for drivers under the age of 21 to operate a motor vehicle with a blood alcohol level of .02 or less.

Drunk Driving Laws and Penalties

Drunk driving has been considered a traffic violation since the turn of the century, but in recent years the penalties for drunk driving in most states have grown much harsher, as a result of the efforts of groups such as Mothers Against Drunk Driving (MADD), founded in 1980. In every state at a minimum, convicted drunk

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drivers automatically lose their licenses for a certain amount of time. Some states require short jail terms for first time offenders, and most states require drunk-driving offenders to go through some sort of treatment program.

In addition to the general penalties for drunk driving, many states have specific laws dealing with aspects of drunk driving. The following are some of the various state laws dealing with drunk driving, along with a list of the states that have them:

- **Anti-Plea Bargaining:** A policy that prohibits plea-bargaining or reducing an alcohol-related offense to a non-alcohol related offense. Arizona, Arkansas, California, Colorado, Florida, Kansas, Kentucky, Mississippi, Nevada, New Mexico, New York, Oregon, Pennsylvania, Wyoming
- **Child Endangerment:** Creates a separate offense or enhances existing DUI/DWI penalties for offenders who drive under the influence with a minor child in the vehicle. Alabama, Arizona, California, Colorado, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Nevada, New Hampshire, New Jersey, North Carolina, North Dakota, Ohio, Rhode Island, South Carolina, Tennessee, Utah, Virginia West Virginia, Wisconsin
- **Dram Shop:** A law that makes liable establishments who sell alcohol to obviously intoxicated persons or minors who subsequently cause death or injury to third parties as a result of alcohol-related crashes. Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, District of Columbia, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin, Wyoming
- **FELONY DUI:** Makes drunk driving a felony offense based on the number of previous convictions. Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Dakota, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming
- **High Blood Alcohol Content Laws:** Result in increased penalties for driving with blood alcohol concentration of .15 or higher at time of arrest. Arizona, Arkansas, Colorado, Connecticut, Florida, Idaho, Illinois, Indiana, Iowa, Kentucky, Maine, Minnesota, Nevada, New Hampshire, New Mexico, Ohio, Oklahoma, Tennessee, Virginia, Washington, Wisconsin
- **Hospital Blood Alcohol Content Reporting:** Authorizes hospital personnel to report blood alcohol test results of drivers involved in crashes to local law enforcement where the results are available as a result of treatment. Florida, Hawaii, Illinois, Indiana, Oregon, Pennsylvania, Utah, Vermont
- **Increased Penalties for Blood Alcohol Content Refusal:** Provides for increased penalties for refusing to take a blood alcohol content test, higher than failing the test would bring. Arkansas, Georgia, Kansas, Virginia, Washington.
- **Mandatory Alcohol Assessment/Treatment:** Law that mandates that convicted drunk driving offenders undergo an [ASSESSMENT](#) of alcohol abuse problems and participate in required treatment program. Alabama, Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Kansas, Kentucky, Maine, Michigan, Mississippi, Missouri, Montana, Nevada, New Hampshire, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, West Virginia, Wisconsin
- **Mandatory Jail, Second Offense:** Makes a jail term mandatory for a second drunk driving offense. Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri,

Encyclopedia of Everyday Law: Traffic Violations

Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming

- **Sobriety Checkpoints:** Allows law enforcement officials to establish checkpoints to stop vehicles and examine their drivers for intoxication. Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, West Virginia, Wyoming
- **Social Host:** Imposes potential liability on social hosts as a result of their serving alcohol to obviously intoxicated persons or minors who subsequently are involved in crashes causing death or injury to third-parties. Alabama, Arizona, Colorado, Connecticut, Florida, Georgia, Idaho, Indiana, Iowa, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Montana, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Texas, Utah, Vermont, Wisconsin, Wyoming

Additional Resources

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<http://www.nolo.com> "Cars & Tickets," Nolo Press, 2002

West's Encyclopedia of American Law. West Publishing Company, 1998.

Organizations

Mothers Against Drunk Driving (MADD)

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