



OFFICE OF THE STAFF JUDGE ADVOCATE
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DRIVING UNDER THE INFLUENCE IN TN & KY

Driving under the influence (DUI) is the operation of a vehicle while under the influence of alcohol or other substance which impairs driving ability. If you are convicted of a DUI, you may be punished with penalties including fines, jail, and driver's license suspension.

“Illegal per se” provision. Degree of impairment is determined by the blood alcohol concentration (BAC), tested by blood, breath, or urine. With a BAC of 0.08% or more, a person will be presumed under the influence. This is considered a “per se” violation (on its face of or by itself). This means that it is illegal to operate a motor vehicle with a BAC at that level, even if there is no evidence that the person's ability to drive is actually impaired. The BAC limit for commercial drivers is 0.04%, and for persons under age 21 it is 0.02%.

Implied Consent Law. Implied Consent means that when a person operates or is in physical control of a vehicle, he has been deemed to consent to one or more tests of blood, breath, or urine for the purpose of determining alcohol concentration or presence of a substance which may impair one's driving ability.

Over-the-counter and prescription drugs. A person can be convicted of DUI for operating a vehicle while under the influence of alcohol and/or any intoxicant, narcotic drug, or other drug that produces effects on the central nervous system. Prescribed drugs, such as tranquilizers or sedatives, can also affect the ability to drive safely. A person can be convicted for driving under the influence of prescribed drugs, as well as over-the-counter drugs, such as antihistamines, cold tablets, cough syrups, or allergy remedies that impair one's ability to drive.

DUI in Tennessee.

Offense	Jail time	Fine	License revocation	Vehicle seizure	Additional DUI penalties
1st Conviction	24 hours – 11 months, 29 days	\$350- \$1,500	1 year. May be eligible for restricted license.	Does not apply	Court may order volunteer community work. Alcohol safety DUI school program is required to regain driver's license.
2nd Conviction	45 days – 11 months, 29 days	\$600- \$3,500	2 years	Vehicle may be subject to seizure and forfeiture	Court may order volunteer community work, and Alcohol Safety DUI school program. If there is a prior DUI conviction in the last 5 years, enrollment in the Ignition Interlock Program

					for 6 months following reinstatement of driver's license is mandatory.
3rd Conviction	120 days – 11 months, 29 days	\$1,100- \$10,000	3 -10 years	Vehicle may be subject to seizure and forfeiture	Ignition interlock device required. Court may also order volunteer community work/or Drug and Alcohol Assessment, plus an Alcohol Safety DUI school program.
4 th or subsequent Offenses (Class E felony)	No less than 150 Consecutive days.	\$3,000- \$15,000	5 years [to indefinite]	Vehicle may be subject to seizure and forfeiture	Court may order volunteer community work and Alcohol safety DUI school program.

Drunk Driving Child Protection Act. If a person operates a motor vehicle while accompanied by a child under the age of 18, the penalty is a mandatory minimum jail sentence of 30 days and a minimum fine of \$1,000.

DUI in Kentucky.

Offense	Jail time	Fine	License revocation or suspension	Additional DUI penalties
1st Conviction	2 to 30 days (4 days if aggravating circumstances presents)	\$200- \$500	30 to 120 days suspension. A hardship license is available if suspension is more than 30 days. Drivers under 21 will be suspended for 30 days to 6 months and may get a hardship license. After license suspension and completion of alcohol treatment, drivers may be reinstated.	Alcohol and Drug Assessment and Treatment: Ninety days. Community Service: In lieu of a fine or imprisonment or both, an offender can apply to the judge for permission to enter a community labor program for 2 - 30 days.
2nd Conviction	7 days – 6 months (14 days if aggravating circumstances)	\$350- 500	12 to 18 months suspension. District Judge may grant a hardship license after 12 months.	Community Service: 10 days - 6 months. Alcohol and Drug Assessment and

	present)			Treatment: 1 year.
3rd Conviction	30 days – 12 months. At least 48 hours of the sentence must be served consecutively. (60 days if aggravating circumstances)	\$500 - \$1,000	24 to 36 months suspension. District Judge may grant a hardship license after 24 months.	Community Service: 10 days - 6 months. Alcohol and Drug Assessment and Treatment: 1 year.
4 th or subsequent Offenses (If offense within 5 yrs, guilty of Class D felony)	1 – 5 years. At least 120 days imprisonment without probation (240 days imprisonment if aggravating circumstances)	\$1,000 - \$10,000	60 months of revocation. No hardship license.	Alcohol and Drug Assessment and Treatment: 1 year.

Aggravating Factors. The DUI law in Kentucky establishes a list of six aggravating factors, which double the mandatory minimum jail sentence:

1. Operating a motor vehicle in excess of 30 miles per hour above the speed limit.
2. Operating a motor vehicle in the wrong direction on a limited access highway.
3. Operating a motor vehicle that causes an accident resulting in death or serious physical injury.
4. Operating a motor vehicle while the alcohol concentration in the operator's blood or breath is 0.15 or more as measured by a test or tests of a sample of the operator's blood or breath taken within two (2) hours of cessation of operation of the motor vehicle;
5. Refusing to submit to any test of one's blood, breath or urine requested by an officer having reasonable grounds to believe the person was operating or in physical control of a motor vehicle in violation of the DUI laws.
6. Transporting a passenger under the age of 12 years old.

More information. For more information you may consult the websites <http://tennessee.gov/safety/duioutline.htm> and <http://transportation.ky.gov/driver-licensing/pages/dui-laws-in-kentucky.aspx>. For additional information or assistance you may contact the Fort Campbell Client Services Office, building 2765 Tennessee Ave. at 29th Street, (270) 798-0910/0918 or book an appointment to speak with an attorney by visiting www.sjaclientservices0366.setmore.com.