

There are several Montana laws related to impaired driving. It is unlawful to:

1. Drive while **under the influence of alcohol or drugs** (“DUI”) *Montana Code Annotated (MCA) § 61-8-401*
 - The basis for the charge is evidence that a person’s ability to safely operate a vehicle has been diminished by alcohol (any level, including alcohol concentration less than 0.08%) and/or drugs.
 - Drugs includes prescription drugs, marijuana (medical or not), illicit drugs, any other drug, or any combination thereof.
2. Operate a noncommercial vehicle with **excessive alcohol concentration** (“BAC”) *MCA § 61-8-406*
 - A BAC violation does not require proof of impairment, only that alcohol concentration (BAC) ≥ 0.08%.
3. Operate a **commercial motor vehicle** with an alcohol concentration (BAC) ≥ 0.04% *MCA § 61-8-406*
4. Commit an **“Aggravated DUI”** *MCA § 61-8-465*
Some impaired drivers have a higher risk of reoffending, and are subject to greater penalties. Aggravated DUI may be charged in a variety of circumstances, such as if a driver has BAC ≥ 0.16%; is already subject to ignition interlock restrictions; was driving with a suspended or revoked driver license; has a prior refusal to provide BAC evidence; and/or has prior DUI / BAC conviction.

Penalties are dispersed through several statutes, including MCA § 61-8-714, 61-8-732, 61-8-442, 61-5-208, 61-8-734, 46-16-130, 61-11-203, 44-4-12, and others. The table below is a simple summary of the main penalties. *Please note: This is not intended to represent all the subtleties of the law, as it may be applied to individual cases.*

Other real-life penalties

This summary does not address other likely DUI/BAC consequences, such as increased insurance rates, restricted travel to other countries, and decreased education and career opportunities. For more information, visit www.plan2live.mt.gov/reasons_to_plan.shtml.

PENALTIES	1st conviction	2nd conviction	3rd conviction
Jail	<i>Minimum incarceration time listed must be served in jail, not under house arrest, and cannot be suspended.</i>		
DUI (MCA § 61-8-401)	24 hrs – 6 months	7 days – 1 year	30 days – 1 year
BAC (MCA § 61-8-406)	up to 6 months	5 days – 1 year	30 days – 1 year
Fine (Exclusive of Court Costs)	\$300 – \$1000	\$600 – \$1000	\$1000 – \$5000
Passengers < age 16	<i>Fines and jail time typically double if passengers under age 16 were in the vehicle at the time of arrest.</i>		
DUI (MCA § 61-8-401)	fine of \$600 – \$2,000 jail 48 hours – 1 year	fine of \$1,200 – \$2,000 jail 14 days – 1 year	fine of \$2,000 – \$10,000 jail 60 days – 1 year
BAC (MCA § 61-8-406)	fine of \$600 – \$2,000 up to 6 months in jail	fine of \$1,200 – \$2,000 jail 10 days – 1 year	fine of \$2000 – \$10,000 jail 60 days – 1 year
Driver License	6 month suspension 1 year suspension 1 year suspension A driver license suspension commences from the date of conviction. For many offenders, the privilege to drive is withdrawn for the entire period listed above. <i>If the 1 year suspension period passes and the person has not completed a chemical dependency education course, treatment, or both, as required under MCA §61-8-732 and/or 44-4-1205, the license suspension remains in effect until the course or treatment, or both, are completed.</i>		
Restricted Probationary Driver License	The convicting judge determines if and when an offender is eligible for a restricted probationary driver license. However, no restricted probationary driver license is allowed if the driver refused to provide an alcohol test when requested by the investigating officer. A \$200 driver license reinstatement fee is required. <i>Driving is permitted only to and from driver’s residence and: ✓ work or school ✓ required chemical dependency programs ✓ a location reasonably related to the maintenance of the household.</i>		
Driver Record	Ten conviction points are added to the Driver Record for each DUI / BAC conviction. 30 conviction points = Habitual Traffic Offender ⇒ driver license revocation (MCA § 61-11-203) A DUI / BAC conviction is on the Driver Record FOR LIFE! A person commits a 2 nd or 3 rd DUI/BAC offense if less than five years have passed between the present offense and a previous conviction. This is known as the “five-year look back” period. After three lifetime DUI/BAC convictions, all convictions are counted regardless of time passed (MCA 61-8-734). A 4 th conviction is a felony offense. There is no limitation on the look-back period for 4 th or subsequent offenses.		
Ignition Interlock An interlock-restricted probationary driver license may be required by the court.	A judge may order ignition interlock for an offender convicted of 1 st Offense DUI / BAC. At a minimum, a 2nd, 3rd or subsequent DUI / BAC offender restricted to ignition interlock must complete 45 days of the 1-year suspension (2nd offense); 90 days of the 1-year suspension (3rd offense); or be an authorized DUI Court participant. The offender must pay all costs associated with installation, lease, and maintenance of ignition interlock. An offender may need to lease more than one interlock device in order to accommodate all of their driving needs. As an alternative to ignition interlock, a judge may order every vehicle owned by an offender to be seized and forfeited.		
A - C - T Chemical Dependency Assessment, Education Course, Treatment A = <u>A</u> ssessment C = <u>C</u> ourse T = <u>T</u> reatment	<ul style="list-style-type: none"> • Following conviction, all DUI offenders are court-ordered to receive a mandatory chemical dependency assessment to determine the nature and extent of their alcohol/drug problems. Assessments are conducted by licensed addiction counselors (LACs) who are part of a DPHHS-approved chemical dependency treatment program. • All offenders are required to attend PRIME For Life®, a chemical dependency education course, at a DPHHS-approved program. • Treatment is mandatory on 2nd and 3rd offenses, but may be ordered for a first-time offender if he/she is found to be chemically dependent by an LAC. Treatment must be at a level appropriate to the level of chemical dependency noted in the assessment. • For 2nd and 3rd DUI/BAC offenses, the treatment program is followed by monthly monitoring for at least one year from the date of admission to the program. Failure to follow through with the monitoring can affect the suspended sentence. • If the offender fails to attend the education course or treatment program, the counselor notifies the court and the county attorney. • Offenders must pay all costs associated with A - C - T requirements and services. • Offenders who fail to comply with A - C - T requirements may be deemed non-compliant and subject to court action. 		