

First Offense DUI in Virginia

Virginia categorizes a first DUI offense as a class 1 misdemeanor and imposes a fine ranging from \$250 to \$2,500. The law also imposes a one-year license suspension. The punishment increases if you were arrested with a BAC of 0.15% or higher in which case your sentence may include a minimum five-day jail sentence.

Administrative Penalties

A first offense DUI in Virginia results in **administrative license suspension of one year**. Reinstatement of a license requires completion of an alcohol safety and education program. If the driver was arrested with a BAC at or in excess of .15, the driver must utilize an ignition interlock device upon reinstatement of his or her license.

Criminal Penalties

First offense convictions carry **no mandatory minimum** period of incarceration for offenders, **except if the offender had a minor passenger in the vehicle** (mandatory incarceration of five days), if the driver had a BAC in excess of .15 (mandatory minimum incarceration of five days), or the driver had a BAC in excess of .20 (mandatory minimum incarceration of ten days).

The **mandatory minimum fine** is \$250, but if there was a minor passenger present, minimum fines increase by at least \$500, but not more than \$2,500. Fines do not include expenses incurred related to completion of terms of the sentence or applicable restitution mandated by the courts. For example, some jurisdictions have additional fees referred to as Emergency Response Restitution.

Convictions can be used in determining the nature of second or subsequent DUI offenses for a period of 10 years.

Getting Legal Help

No statutory language in the state of Virginia prohibits pleading down DUI charges into lesser criminal offenses or even traffic violations. The ability to do so, however, is contingent upon the use of legal counsel and the case-specific nature of each DUI arrest. Pending case-specific factors, dismissal of charges may also be possible.

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What an Attorney Can Do For You

- Analyze the officer's initial stop of your vehicle for reasonable articulable suspicion
- Carefully review the field sobriety tests offered by the officer and performed by the individual as to potential challenges which should be raised.
- Assess whether the officer has read to you mandatory statutory provisions regarding your rights.
- Determine whether the officer had probable cause to place you under arrest.
- Obtain and review for you the maintenance records from the Department of Forensic Science regarding the Intoxilyzer Model 5000 breath test machine.
- Make sure the Intoxilyzer Model 5000 is properly calibrated and maintained in accordance with procedures established by the Department of Criminal Services.
- Assess whether the individual who prepared and supervised the test with the Intoxilyzer Model 5000 has completed the approved training program and has a valid license to perform the test.
- Determine whether an expert is appropriate to testify on your behalf to rebut the presumption of intoxication at the time of the offense.
- Protect your driving privileges.
- Use leverage obtained from any weakness in the prosecutor's evidence to negotiate a possible favorable resolution to your case.

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What You Can Do For You

There are a few things you can do to make it more likely that a Virginia Court will grant you a Restricted License:

- Do not get in any additional trouble while your case is pending.
- Enroll in the Virginia Alcohol Safety Action Program (VASAP) as soon as possible after your arrest and ask that they do a Pre-Court Evaluation.
- Consider attending AA meetings.
- Gather letters from employers, professional colleagues and others who can speak to your level of trustworthiness and responsibility aside from this unfortunate incident.
- Have written verification of employment and exact addresses to every location you will be requesting permission to drive.
- Since many courts will not issue a restricted license until the fine and court costs are paid in full, you should come to court prepared to pay the fine and court costs in full.

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