



NATIONAL CONFERENCE *of* STATE LEGISLATURES

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Drugged Driving Per Se Laws

State/Jurisdiction	Statutory Citation	Per Se Laws (Statutes that make it a criminal offense to have a drug in one's body/body fluids while operating a motor vehicle.)
Arizona	Ariz. Rev. Stat. § 28-1381	Any amount of Drug or Metabolite.
Colorado	Colo. Rev. Stat. §42-4-1301	5 nanogram threshold of THC.
Delaware	21 Del. Code § 4177	Any amount of Drug or Metabolite.
Georgia	Ga. Code Ann. § 40-6-391	Any amount of Drug or Metabolite.
Illinois	Ill. Comp. Stat. § 625 ILCS 5/11-501 Ill. Comp Stat. § 625 ILCS 5/11-501.2	Any amount of a prohibited drug. 5 nanogram threshold of THC.
Indiana	Ind. Code Ann. § 9-30-5-1	Any amount of Drug or Metabolite.
Iowa	Iowa Code § 321J.2	Any amount of a prohibited drug.
Kentucky	Kentucky Rev. Stat. §189A.010	Any amount of (a) Any Schedule I controlled substance except marijuana; (b) Alprazolam; (c) Amphetamine; (d) Buprenorphine; (e) Butalbital; (f) Carisoprodol; (g) Cocaine; (h) Diazepam; (i) Hydrocodone; (j) Meprobamate; (k) Methadone; (l) Methamphetamine; (m) Oxycodone; (n) Promethazine; (o) Propoxyphene; and (p) Zolpidem.

Michigan	Michigan Vehicle Code § 257.625	Any amount of a prohibited drug. ¹
Minnesota	Minn. Stat. Ann. §169A.20	Any amount of Drug or Metabolite. ²
Montana	2013 MT House Bill 168	5 nanogram threshold of THC.
Nevada	Nev. Rev. Stat. Ann. § 484C.110	Specified amounts of specified prohibited drugs.
North Carolina	N.C. Gen. Stat. §§ 20-138.1, 20- 138.3	Any amount of schedule I substance. Illegal for any person age 21 to drive with any amount of a prohibited drug or substance.
Ohio	Ohio Rev. Code § 4511.19	Specified amounts of specified prohibited drugs.
Oklahoma	Oklahoma Stat. Ann. 47 §11-902	Any amount of schedule I controlled substance (as defined by Oklahoma statutes) or metabolites or analogs.
Pennsylvania	Pa. Con. Stat. §75-3802	Any amount of Drug or Metabolite.
Rhode Island	R.I. Gen. Laws § 31-27-2	Any amount of a prohibited drug.
South Dakota	S.D. Codified Laws §32-23-1	Illegal for any person age 21 to drive with any amount of a prohibited drug or substance.
Utah	Utah Code §41-6a-517	Any amount of Drug or Metabolite.
Virginia	Va. Code §18.2-266	Specified amounts of specified prohibited drugs.
Washington	Initiative 502	5 nanogram threshold of THC.
Wisconsin	Wis. Stat. Ann. § 346.63	Any amount of a prohibited drug.

*All other states require the drugs to render a driver “incapable” of driving safely, require that the drug impair the driver’s ability to operate safely, or require a driver to be “under the influence or affected by an intoxicating drug”.

Notes:

1. The Michigan Supreme Court ruled that “medical” marijuana users were not subject to the per se standard. In cases of drugged driving by an approved medical marijuana user, the state must prove the driver was impaired by marijuana at the time of the arrest.
2. The statute specifically exempts marijuana from the per se standard.

Source: NHTSA 2009 and NCSL 2017.