

Criminal Status of State Drunk Driving Laws

State/Jurisdiction	Citation	Criminal Status
Alabama	§32-5A-191(e), (f),(g) & (h)	1 st , 2 nd , and 3 rd offenses are misdemeanors. 4 th or subsequent offense within five years is a class C felony.
Alaska	§§12.55.035, 12.55.125, 12.55.135 and 28.35.030	1 st and 2 nd offenses are class A misdemeanors 3 rd or subsequent offense within 10 years is a class C felony
American Samoa	§§22.0707 & 46.2301(5)	All DUI offenses are class A misdemeanors
Arizona	§§13-604, 13-701, 13-707, 13-801, 13-802, 28-1382 & 28-1383	1 st and 2 nd offense are class 1 misdemeanors 3 rd or subsequent offense is a class 4 felony
Arkansas	§§5-65-111 & 5-65-112	4 th or subsequent offense within 5 years is a felony (fewer offenses not classified)
California	Vehicle Code §§23152, 23550, & 40000.15	non-injury DUI offenses are misdemeanors, a 4 th or subsequent offense is a felony if offender is sentenced to incarceration in a state prison
Colorado	§§18-1.3-401 & 18-3-205	DUI and impaired offenses are misdemeanors, injury-related DUI offenses are class 4 felonies
Connecticut	§§14-227a(h), 53a-25 & 53a-26	1 st and 2 nd offenses are misdemeanors, 3 rd and subsequent offenses within ten years are felonies
Delaware	11 §4202(b), 21 §§4177(d) & 4177B(e)(2)	1 st and 2 nd offenses are unclassified misdemeanors, 3 rd is a class G felony, 4 th or subsequent is a class E felony
DC		DUI offenses are not classified
Florida	§§316.193 & 775.082	1 st and 2 nd offenses are misdemeanors, 3 rd or subsequent offense within ten years is a 3 rd degree

		felony
Georgia	§40-6-391(c) & (k)	1 st and 2 nd offenses are misdemeanors, 3 rd and subsequent offenses are high and aggravated misdemeanors
Guam	Title 9 §§80.34, 1.19(b) & 80.30(c), and Title 16, §§18104, 18105, 18106	1 st and 2 nd non-injury DUI offenses are misdemeanors, 3 rd and subsequent non-injury DUI offenses and any injury-related DUI offenses are third degree felonies
Hawaii	§§ 291E-61 (b)	1 st , 2 nd and 3 rd offenses are petty misdemeanors, 4 th or subsequent offense is a class C felony
Idaho	§§18-8004C(1)(a) &(2)(a), 18-8005 & 18-8006	1 st and 2 nd offenses are misdemeanors, 2 nd or subsequent offense with BAC = .20 is a felony, 3 rd or subsequent offenses are felonies, DUI with bodily harm or disfigurement is a felony
Illinois	625 ILCS 5/11-501 and 730 ILCS 5/5-8-1(a)(7) & 5-8-3(a)(1)	1 st and 2 nd offenses are class A misdemeanors, 3 rd and subsequent offenses are class 4 felonies
Indiana	IC9-30-5-1 et seq., IC35-50-2 6 & 7, & IC35-50-3-2, et seq.	Illegal per se offense with a BAC of .08 to .15 is a class C misdemeanor; with a BAC of .15 and higher, it is a class A misdemeanor; for subsequent convictions within 5 years, it is a class D felony.
Iowa	§§321J.2(2) & (3), 707.6A(3), 902.9, 903.1 & 907.3(3)(c)	1 st offense is serious misdemeanor, 2 nd offense within 12 years is aggravated misdemeanor, 3 rd or subsequent offense is class D felony
Kansas	§§8-1567(d), (e) (f) & (k)(3), & 21-4502(1)	1 st offense is class B non-person misdemeanor, 2 nd offense is a class A non-person misdemeanor, 3 rd or subsequent offense is a non-person felony
Kentucky	§§189A.010(5), 532.020 & 532.060	1 st offense is a class B misdemeanor, 2 nd offense within 5 years is a class A misdemeanor, 3 rd offense within 5 years with a BAC under .18 is a class A misdemeanor, 3 rd offense with a BAC of .18 or higher is a class D felony; 4 th and subsequent offenses are class D felonies
Louisiana	§14:98	1 st and 2 nd offenses not classified, 3 rd offense can be either a misdemeanor or felony, 4 th offense is a

		felony
Maine	17-A MRSA §1252, and 29-A MRSA §2411 (5)(D)	1 st , and 2 nd offenses are class D crime, 3 rd or subsequent offenses are class C crime
Maryland	Trans. §§21-902, 27-101 et seq., & 27-102	all DUI offenses are misdemeanors
Massachusetts	Ch. 90 §24(1)(a) & Ch. 274 §1	1 st and 2 nd offenses are unclassified, 3 rd and subsequent offenses are felonies
Michigan	§257.625(8) & (10)	1 st and 2 nd offenses are misdemeanors, 3 rd or subsequent offenses within 10 years are felonies
Minnesota	§§169A.20, et seq.	-Fourth degree drunk driving offense-no aggravating Factors- Misdemeanor -Third Degree Drunk Driving Offense - One aggravating factor-Gross Misdemeanor -Second Degree Drunk- Driving Offense with two aggravating factors-Gross Misdemeanor -First Degree Drunk Driving Offense - A drunk-driving offense with three or more aggravating factors-Felony Aggravating Factors: (1) any prior drunk-driving offense (A prior offense includes prior refusal convictions and admin. per se violations and vehicle homicide or injury offenses.); (2) driving with an alcohol concentration • 0.20; or, (3) driving with a passenger < 16 years old if the passenger is more than 36 months younger than the driver.
Mississippi	§§63-11-30(2)(a) (b) & (c)	1 st and 2 nd offenses are misdemeanors, 3 rd and subsequent offenses are felonies
Missouri	§§577.010, 577.012, 577.023, 558.011 & 560.016	1 st intoxication offense is a class B misdemeanor, 1 st per se offense is class C misdemeanor, 2 nd offenses are class A misdemeanors, 3 rd or subsequent offenses are class D felonies
Montana	§§61-8-401, 61-8-711(1), 61-8-714, 61-8-731 & 61-8-734	1 st , 2 nd and 3 rd offenses are misdemeanors, 4 th and subsequent offenses are felonies
Nebraska	§§28-105, 28-106, 60-6,196 & 60-6,198	1 st and 2 nd offenses and 3 rd offense within 12 years are class W misdemeanors; 4 th and subsequent offenses within 12 years are class IV felonies; injury related

		DUI offenses are class III A felonies
Nevada	§§193.120 & 484.3792	1 st and 2 nd offenses are misdemeanors, 3 rd or subsequent offenses are category B felonies
New Hampshire	§265-A:18	1 st offense is a class B misdemeanor. 2 nd and 3 rd non-injury DUI offenses are class A misdemeanors, 4 th or subsequent non-injury DUI offenses are felonies, and DUI with serious bodily injury is a class B felony
New Jersey	State v Hamm 577 A.2d 1259 (NJ 1990)	Drunk driving is a violation, not a "crime".
New Mexico	§66-8-102	4 th offense is a 4 th degree felony (fewer offenses not classified)
New York	V&T Law §§1193 & 1193(1)(c)	Driving while ability impaired offenses: 1 st offense is a traffic infraction, 2 nd and subsequent offenses are misdemeanors. Driving while intoxicated offenses: 1 st offense is a misdemeanor, 2 nd offense within 10 years is a class E felony, 3 rd offense within 10 years is a class D felony
North Carolina	§20-138.5	4 th or subsequent offense is a class F felony, fewer offenses are classified as levels 1-5, based on length of sentence
North Dakota	§§12.1-32-01 & 39-08-01 (2) & (4)	1 st and 2 nd offenses are class B misdemeanors, 3 rd and 4 th offenses are class A misdemeanors, 5 th and subsequent offenses are class C felony
Ohio	§§2929.14, 2929.16, 2929.18(B)(3), 2929.19(C), 2929.21 & 4511.99(A)	1 st and 2 nd offenses are 1 st degree misdemeanors, 3 rd offense is a misdemeanor, 4 th offense within 6 years is a fourth degree felony, subsequent offenses within any time period is a third degree felony.
Oklahoma	47 §11-902	1 st offense is a misdemeanor, 2 nd and subsequent offenses within ten years are felonies
Oregon	§§813.010(4) & (5), 161.605(3) & 161.615(1)	1 st , 2 nd and 3 rd offenses are class A misdemeanors, 4 th and subsequent offenses are class C felonies

Pennsylvania	18 § 1104(1) & (2) & 75 §3731(e)(1)	1 st or 2 nd offenses are 2 nd degree misdemeanors, 3 rd or subsequent offenses are 1 st degree misdemeanors
Puerto Rico	9 §1042	Non-injury DUI offenses are misdemeanors, 1 st and 2 nd injury DUI offenses are misdemeanors, 3 rd or subsequent injury DUI offenses are felonies
Rhode Island	§§11-1-2 & 31-27-2.6	Non-injury DUI offenses are misdemeanors, DUI with serious bodily injuries are felonies
South Carolina	§§16-1-10, 16-1-20, 16-1-90(F), 16-1-100(A) & (C) & 56-5-2940	1 st offense is a misdemeanor, 2 nd offense within ten years is a class C misdemeanor, 3 rd offense within ten years is a class A misdemeanor, 4 th and subsequent offenses within ten years are class F felonies.
South Dakota	§§22-6-1, 22-6-2, 32-23-2 et seq.	1 st and 2 nd offenses within five years are class 1 misdemeanors, 3 rd offense within five years is a class 6 felony, 4 th and subsequent offenses within five years are class 5 felonies.
Tennessee	§§ 40-35-111 and 55-10-403	1 st , 2 nd and 3 rd offenses are class A misdemeanors, 4 th and subsequent offenses within 10 years is a class E felony
Texas	Penal Code §§12.21, 12.22, 12.34, 49.04 & 49.09	1 st offense is a class B misdemeanor, 2 nd offense within 10 years is a class A misdemeanor, subsequent offenses are 3 rd degree felonies
Utah	§§41-6-44 (3), (6) & (7)	1 st and 2 nd offenses within six years are class B misdemeanors, 3 rd and subsequent offenses within ten years are 3 rd degree felonies.
Vermont	13 §1 & 23 §1210	1 st and 2 nd offenses are misdemeanors, 3 rd and subsequent offenses are felonies
Virginia	§§18.2-10(f), 18.2-11(a) & 18.2-270	1 st offense and 2 nd offenses within 10 years are class 1 misdemeanors, 3 rd offense within 10 years is a class 6 felony.
Virgin Islands	14 §2(b)(1), 20 §493(b) & 20 §544(b)	1 st offense is a misdemeanor, subsequent offenses are felonies
Washington	§§ 9A.20.021, 46.61.502(5) &	All DUI offenses are gross misdemeanors

	46.61.504(5)	
West Virginia	§17C-5-2	1 st and 2 nd offenses are misdemeanors, 3 rd and subsequent offenses are felonies
Wisconsin	§§346.63(1) & (2), 346.65(2), 346.65(3m), 939.50 & 940.25	1 st offense is a municipal offense; the 2 nd through 4 th offenses are misdemeanor, and the 5 th and subsequent are a Class H felony which is punishable by a fine not to exceed \$10,000 or a term of imprisonment not to exceed 6 years, or both
Wyoming	§§6-10-101 & 31-5-233(e), (g) & (h)	Non-injury DUI offenses are misdemeanors, 1 st injury-related DUI offense is a misdemeanor, 4 th or subsequent offenses within 5 years are felonies

Source: NHTSA 2007 and NCSL 2008.