



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. |

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| 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.