

# Chapter 8 Driving Under the Influence of Alcohol or Drugs

*It is illegal to operate a vehicle on Minnesota roads when impaired by alcohol or other substances.*

## Alcohol and Driving

Drinking and driving is a serious problem in Minnesota and across the nation. There is a strong relationship between alcohol use and severity of traffic crashes. Alcohol use is involved in more than one-third of the deaths on Minnesota roads each year.

Crashes involving impaired drivers kill an average of 240 people each year in Minnesota and injure thousands of others. The person most often killed in an alcohol-related crash is the impaired driver. Young males are more likely than others to engage in this deadly behavior.

## Drugs and Driving

Drug-impaired driving is as dangerous as alcohol-impaired driving. Minnesota law prohibits driving while impaired by controlled or hazardous substances. These substances include illegal drugs and prescription drugs, as well as household products.

These substances can impair a driver's mental and physical ability to safely operate a vehicle and to respond to driving conditions.

Legal drugs that may not cause impairment alone can produce powerful intoxicating effects when mixed with alcohol.

## Effect of Alcohol on Driving Skills

Alcohol is a depressant that slows body functions and impairs motor skills. The amount of alcohol in the blood is called the "alcohol concentration." Higher alcohol concentration means a greater degree of impairment. Driving ability becomes impaired after one drink.

## Types of Effects

Alcohol affects the central nervous system and impairs the ability to drive safely. The following section describes how specific functions are affected by alcohol consumption.

### Judgment

Drivers who consume alcohol misjudge their degree of impairment. They may drive too fast, misjudge stopping distance, fail to wear a seat belt, and forget to drive defensively.

### Vision

Range of eye movement decreases, reducing peripheral vision. Blurred vision may also occur at high alcohol-concentration levels.

### Reaction Time

Reaction time is slower. Impaired drivers cannot respond quickly to traffic signals, actions of other drivers and pedestrians, and events that take place on the road around them.

### Steering

Impaired drivers tend to over-steer, which can result in weaving and running off the road.

### Perception

Impaired drivers do not notice sounds and sights — or do not interpret them correctly.

### Coordination and Balance

Impaired drivers lose the ability to combine steadiness with speed and accuracy.

### Attention

Drivers have difficulty giving their attention to focus on the many tasks required to operate a motor vehicle.

## Things to Know about Alcohol

A 12-ounce beer, a five-ounce glass of wine, a typical mixed drink, and a nine-ounce wine cooler usually contain about the same amount of alcohol. It is important to realize, however, that mixed drinks may contain more than the standard one and a half ounces of alcohol, and the amount of alcohol in beers may vary by as much as 40 percent.

The term “proof” refers to the strength of a drink and is equal to twice the percent of alcohol the substance contains. A bottle of 80 proof whiskey, for example, contains 40 percent alcohol.

The period of time over which you drink affects your alcohol concentration. If you consume more than one standard drink per hour, your alcohol concentration will increase. The effects of alcohol vary greatly among individuals.

Factors such as age, gender, body weight, mood, food intake, metabolism, and genetics have an impact on how alcohol affects an individual. You may be affected differently by alcohol on different occasions due to fluctuating factors such as mood, food intake, and even sleepiness.

Males and females are affected differently by alcohol. Men generally have more muscle tissue, which does not allow alcohol absorption into the blood stream as readily as fat. A person who has a higher percentage of fat than another person of the same weight will reach a higher alcohol concentration by consuming the same amount of alcohol.

The only way to reduce your alcohol concentration is to wait. Alcohol is generally eliminated at the rate of about one drink per hour, but many factors influence the amount of alcohol that is retained.

The body eliminates 95 percent of alcohol through oxidation by the liver. The remaining alcohol is eliminated through breathing, perspiration, and urination. Drinking coffee, exercising, and taking cold showers do not increase the rate of oxidation.

## Making Lower-Risk Choices

Social drinking frequently leads to impaired driving. The safest policy is this: if you are going to drink, don't drive; and if you are going to drive, don't drink. Some alternatives to driving impaired are:

- Designate a driver.
- Call a taxi.
- Call a friend.
- Stay overnight at a friend's house.
- Take away the keys, if a friend is impaired.

Because alcohol consumption impairs judgment, it is important to make a decision while you are sober about how you will avoid impaired driving later.

## Minnesota DWI Law

A person with an alcohol concentration of 0.08 or higher (0.04 if the person is driving a commercial vehicle), who is in control of a moving or parked vehicle, can be arrested for driving while impaired (DWI). If a law enforcement officer can prove that alcohol caused the driver to commit driving errors, he or she can be arrested for DWI at an alcohol concentration level as low as 0.04.

## Implied Consent Law

If a law enforcement officer has probable cause to believe a driver is impaired and is operating or in physical control of a motor vehicle, the driver is required to submit to a test of his or her blood, breath, or urine. It is a crime to refuse to submit to this test. Refusal to take the test will result in a one to six year revocation of driving privileges, depending upon the number of offenses on record.

This law also applies to operation of recreational vehicles, such as boats, snowmobiles, and ATVs.

A law enforcement officer may ask you to blow into a roadside preliminary screening device. This pre-arrest breath test helps the officer determine how much alcohol you have in your system. This instrument is only used as an indicator of your alcohol-concentration level and the results have limited use as evidence in court. If you are arrested, you will be required to submit to a blood, breath, or urine test that can be used as evidence. Any law enforcement officer may ask you to take a test when you:

- Are under arrest for DWI.
- Refuse to take a pre-arrest breath test.
- Take and fail a pre-arrest breath test.
- Are involved in an alcohol-related crash that caused personal injury, property damage, or death.

The pre-arrest breath test can be beneficial to drivers who appear to be intoxicated, but are not. Some medical conditions have symptoms similar to those associated with intoxication. Law enforcement officers will obtain medical assistance for drivers who are ill.

## Penalties

Penalties associated with an alcohol-related revocation of a driver's license include a \$680 reinstatement fee and completion of a DWI knowledge test, driver's license application, and a chemical assessment. Each offense has unique criminal penalties in addition to administrative sanctions, depending on the arrest situation, previous driving violations, and criminal record.

Penalties will be more severe if the driver:

- Has prior DWI arrests.
- Has an alcohol concentration of 0.16 or above.
- Has a child younger than 16 years of age in the vehicle at the time of the stop.
- Is under 21 years of age.
- Refuses a pre-arrest breath test.

A driver who is found to have an alcohol concentration of 0.08 or above, or who refuses to take a test to determine an alcohol concentration, will receive a seven-day temporary license. At the end of the seven-day period, the offender's driver's license will be revoked.

### First Offense

- Minimum of 90-day revocation (30 days if individual pleads guilty to DWI).
- No work permit will be issued until a 15 day revocation period has passed, and until reinstatement requirements have been met. A work permit is not an option for drivers with an alcohol concentration of 0.16 or greater.
- Enrollment in the Ignition Interlock Device Program is an option.
- 90 days in jail and/or \$1,000 fine.

### Second Offense

- Minimum one year license revocation if second offense occurred within 10 years of the first offense.
- Enrollment in the Ignition Interlock Device Program is an option.
- One year in jail and/or \$3,000 fine.
- License plates are impounded.

### Third Offense

- Loss of license for a minimum of three years.
- License is cancelled.
- Chemical use treatment assessment is required.
- Enrollment in the Ignition Interlock Device Program is required.
- One year in jail and/or \$3,000 fine.
- Vehicle is forfeited and license plates are impounded.
- Jail or maximum bail and electronic monitoring.

### Ignition Interlock Device Program

The Ignition Interlock Device Program enhances public safety by monitoring alcohol offenders. The ignition interlock device is installed under the vehicle dashboard and is connected to the starter. To start the vehicle, the driver must blow into the device. The device prevents the vehicle from starting if it detects an alcohol concentration at or above 0.02.

First-time alcohol offenders with an alcohol concentration of 0.16 or above and all second-time alcohol offenders have the option of regaining their driving privileges by participating in the Ignition Interlock Device Program. Drivers whose licenses are canceled and whose privileges are denied as “inimical to public safety” are required to enroll in the Ignition Interlock Device Program for a period of three to six years in order to regain full driving privileges.

### Felony DWI

You may be charged for a felony DWI if you are arrested for: a fourth DWI in a 10-year period; have previously been convicted of a felony DWI; have been convicted of criminal vehicular homicide while under the influence of alcohol or drugs. A fourth offense may result in a loss of license for four years and until rehabilitation and other reinstatement requirements are met. The criminal penalties for felony DWI can include a sentence of up to seven years in prison with a five-year conditional release and a \$14,000 fine.

### Underage Drinking — No Tolerance Rule

The legal age to buy and drink alcohol in Minnesota is 21. It is illegal for a person under age 21 to operate a motor vehicle with any detectable amount of alcohol in their system. If convicted of this offense you will have your driving privileges suspended for 30 days. A second conviction will result in suspension of driving privileges for 180 days.

## Commercial Driver's License and Alcohol and Controlled Substances

You will lose your commercial driver's license for at least one year on the first offense if you:

- Drive a commercial vehicle when your alcohol concentration is 0.04 or more. If your alcohol concentration is less than 0.04, but detectable, you will be put out of service for 24 hours.
- Drive any vehicle when your alcohol concentration is .08 or higher.
- Refuse a blood, breath, or urine test while driving any motor vehicle.
- Leave the scene of a crash involving a motor vehicle that you were driving.
- Use any motor vehicle to commit a felony.

If the offense occurs while you are operating a commercial motor vehicle that is placarded for hazardous materials, you will lose your commercial driver's license for at least three years. A second offense will result in permanent loss of your commercial driver's license. Using a commercial motor vehicle to commit a felony involving controlled substances will result in permanent loss of your commercial driver's license.

Drivers who have a commercial license and are arrested for impaired driving in a passenger vehicle will be unable to obtain a work permit for a commercial vehicle during the withdrawal period.

## Other Laws Related to Alcohol and Controlled Substances

### Open Container

It is unlawful to drink, or to have an open container of, any alcoholic beverage inside a motor vehicle when it is on a public street or highway. It is also unlawful to allow a passenger to drink, or to have an open container of, any alcoholic beverage inside a motor vehicle.

### Controlled Substances in Motor Vehicles

It is unlawful to use, possess or sell controlled substances in a motor vehicle.