

APPENDIX A

ITEM:	
Reference:	UNIFORM VEHICLE CODE (UVC) The UVC as revised by the National Committee on Uniform Traffic Laws and Ordinances in 2000.
 <u>Basis for a DWI Charge</u>	
Standard DWI Offense:	Under the influence of alcohol ¹³³⁷ § 11-902(a) (3)
Illegal Per Se Provision (BAC/BrAC):	≥ O.08 ^{1338and 1339} §§11-902(a)(1) and (2) ≥ O.16 ¹³⁴⁰ §§ 11-902(b)(1) and (2)
Presumption (BAC/BrAC):	None
Types of Drugs/Drugs and Alcohol:	
Other:	Under the influence of (1) Any Drug; (2) a Combination of Drugs ¹³⁴¹ or (3) a Combination of Alcohol and Drugs §11-902(a)(4) and (5)
 <u>Chemical Breath Tests for Alcohol Concentration:</u>	
Preliminary Breath Test Provision:	Yes §11-906
Implied Consent Provision:	Yes §11-904
Arrest Required (Yes/No):	No – A formal arrest is not required in all drunk driving situations. A request for a chemical test under the implied consent provisions may be made by a law enforcement officer under the following conditions:
	I. The officer either has arrested a person for or has probable cause to believe that a person has operated a vehicle under the influence of alcohol, drugs or controlled substances.
	II. The officer either has arrested a person <21 years old for or has probable cause to believe that such a person has operated a vehicle while having any measurable amount of alcohol in the system. §11-904(a)

¹³³⁷ "Alcohol" is defined to mean any substance or substances containing any form of alcohol. (§1-102)

¹³³⁸ The UVC illegal per se provisions also make it an offense to operate a motor vehicle with a breath alcohol concentration of .08/ .16 or more.

¹³³⁹ Under §1-104, "alcohol concentration" means "either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath."

¹³⁴⁰ A person, who operates a vehicle with a BAC at or above this level, is considered to be under the "extreme influence of alcohol." §11-902(b)

¹³⁴¹ Person rendered incapable of safely driving.

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Implied Consent Provision Applies to Drugs (Yes/No):	Yes §11-904
Refusal to Submit to Chemical Test Admitted into Evidence:	Yes (Criminal and Civil Cases) §11-903(c)
Other Information:	A driver may be compelled to submit to a chemical test if they are involved in an accident resulting in either death or serious personal injury to another person and there is reason to believe that they are guilty of a DWI offense. §11-907
<u>Chemical Tests of Other Substances for Alcohol Concentration Which Are Authorized Under the Implied Consent Provision:</u>	
Blood:	Yes §11-904(a)
Urine:	Yes § 11-904(a)
Other	Yes – Other Bodily Substances §11-904(a)
<u>Adjudication of DWI Charges:</u>	
Mandatory Adjudication Provision (Yes/No):	No
Anti-Plea-Bargaining Provision (Yes/No):	No However, the prosecution must state for the record the factual basis for substituting another charge for a DWI one and whether an alcoholic beverage or any drug has been ingested by or administered to the defendant in connection with the offense. §11-908
Pre-Sentencing Investigation Provision (PSI)	Yes Alcohol and Drug Screening Required §11-902(e) In addition, prior to sentencing, either an oral or a written victim's impact statement maybe made to the court. §11-1502(d)
<u>Sanctions for Refusal to Submit to a BAC Chemical Test:</u>	
Refusal to Take a Preliminary Breath Test: Criminal Sanctions (Fine/Jail):	None
Administrative Licensing Action (Suspension/Revocation):	None
Refusal to Take Implied Consent Chemical Test:	
Criminal Sanction (Fine/Jail):	None
Administrative Licensing Action (Suspension/Revocation):	Suspension – 1 year §11-904(e)(1)

DWI Offenses and Commercial Motor Vehicles (CMV)/Commercial Driver's Licenses (CDL): A person is "disqualified" from operating a CMV for not less than 1 mandatory year (3 years mandatory if transporting hazardous materials) if, while driving a CMV, that person (1) has a BAC/BrAC $\geq .04$, (2) is under the influence of alcohol or any drug or (3) refuses to submit to a chemical test for either an alcohol concentration or the presence of drugs. For either (1) a subsequent violation or (2) a combination of two or more violations of any of the above listed items, the "disqualification" is for life (10 years mandatory). In addition, a CMV operator who has any measurable (or detectable) amount of alcohol in their system must be placed "out-of-service" for 24 hours. §§6-500(1), 6-514, 6-516 and 6-517

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years)

I. Under the Influence of Alcohol/Drugs and Illegal Per Se BAC $\geq .08$ (misdemeanor): first offense – 10 days to 1 year; second and subsequent offense (within 5 years) – 90 days to 1 year §§11-902(c) and 17-101(a)

II. Illegal Per Se BAC $\geq .16$ (misdemeanor): first offense -30 days to 1 year; second and subsequent offense (within 5 years) – 120 days to 1 year §§11-902(d) 101(a) Note: For any drunk driving offense, incarceration may be served under home detention. §11-902(h)

Mandatory minimum term:

I. Under the Influence of Alcohol/Drugs and Illegal Per Se BAC $\geq .08$: **None** §11-902(c)

II. Illegal Per Se BAC $\geq .16$: first offense – 30 days; second and subsequent offense (within 5 years) – 60 days §11-902(d)

Fine:

Amount (\$ Range):

I. Under the Influence of Alcohol/Drugs and Illegal Per Se BAC $\geq .08$: first offense – \$250 to **\$1,000**; **second** and subsequent offense (within 5 years) – \$500 to **\$1,000** §11-902(c)
 II. Illegal Per Se BAC $\geq .16$: first offense – \$500 to **\$1,000**; **second** and subsequent offense (**within 5 years**) – **\$1,000 to \$2,000**

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Mandatory Min. Fine (\$):	None ¹³⁴²
Community Service:	Yes – The court may order ANY DUI offender to perform community service. §11-902(i)
Restitution (e.g. Victim's Fund)	Yes – Paid by the defendant to a victim :via a court order. §11- 902(i)
Costs of Incarceration/Home Detention:	Yes – Any offender may be required to pay the costs associated with incarceration or home detention. §11-902(i)
<u>Pre-DWI Conviction Licensing Action</u>	
Administrative Per Se Provision:	Yes I. (1) BAC/BrAC .08 or (2) driver arrested for Driving Under the Influence of Alcohol, Drugs, or Controlled Substances – Suspension 180 days §11-904(e)(2) and (3) II. <u>Persons Under 21 Years Old.</u> BAC/BrAC .02 – suspension – 180 days § 11-905(a)
Other:	Under §§6-207(a)(1) and 6-212(a), a person's license may be suspended for not more than 1 year if he/she has "committed" an offense requiring mandatory license revocation (e.g. DUI).
<u>Post DWI Conviction Licensing Action</u>	
Type of Licensing Action	Suspension/Revocation § 11-902(d)
Term of License Withdrawal	I. Under the Influence of Alcohol/Drugs and Illegal Per Se BAC ≥ .08: first offense – Suspension – 180 days ; second <u>and subsequent offense</u> (within 5 years) – Revocation – 1 year §11-902(c) II. Illegal Per Se BAC ≥ .16: first offense – Revocation – 1 year ; second <u>and subsequent offense</u> (within 5 years) – Revocation – 2 years §11-902(d)
Mandatory Minimum Term of Withdrawal:	I. Under the Influence of Alcohol/Drugs and Illegal Per Se BAC ≥ .08: first

¹³⁴² Under §17-103(c), a court may probate or suspend sanctions for any misdemeanor traffic offense unless such penalties are made specifically mandatory by other provisions.

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offense – **Suspension** – 180 **days**;
second and subsequent offense (within 5
years) – **Revocation** – **1 year** § 11-
902(c)

II. Illegal Per Se BAC \geq .16: first
offense – **Revocation** – **1 year**; second
and subsequent offense (within 5 **years**)
– **Revocation** – **2 years** §11-902(d)

Rehabilitation:

Alcohol Education:

Alcohol Treatment:
02(e)(2)

Yes – any DUI offense §11-902(e)(2)

Yes – any DUI offense §11-

Vehicle Impoundment/Confiscation:
Authorized by Specific Provisions:

No

Vehicle Registration Suspension:

Following a conviction for driving under
the influence of alcohol or any drug, the
registrations of the vehicle or vehicles
registered in the name of such person
may be suspended. The UVC does not
specify a suspension period. § 17- 301

Ignition Interlock:

After the restoration of driving
privileges, the court may order any
drunk driver to operate only motor
vehicles equipped with ignition
interlock devices. §11-902(f)

Miscellaneous Sanctions
Not Included Elsewhere:

After a revocation period, a new license
may not be issued until the person
satisfies the State licensing agency that
it is reasonably safe to permit that
person to drive. §6-210(b)

Other Criminal Actions Related to DWI:

Homicide by Vehicle:

UVC Has Such a Provision¹³⁴³:

Imprisonment Term:

Yes – Misdemeanor or felony §11-910
(a)

Three months to 1 year in the county jail
or not less than 1 year nor more than 5
years in the penitentiary § 11-910 (b)

¹³⁴³ The UVC defines the offense of Homicide by Vehicle as follows. "Whoever shall unlawfully and unintentionally cause of death of another person, while engaged in the violation of any State law or municipal ordinance applying to the operation or use of a vehicle or to the regulation of traffic, shall be guilty of homicide when such violation is the proximate cause of that death." §11-910(a)

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Mandatory Minimum Term:	None -Under §17-103(c), a court may probate or suspend sanctions for any misdemeanor traffic offense unless such penalties are made specifically mandatory by other provisions.
Mandatory Minimum Fine:	\$500 to \$2,000 §11-910(b) {The fine sanction does not apply if the penitentiary imprisonment sanction is imposed.}
Administrative Licensing Action:	None – Under §17-103(c), a court may probate or suspend sanctions for any misdemeanor traffic offense unless such penalties are made specifically mandatory by other provisions.
Licensing Authorized and Type of Action:	Revocation §6-206(1)
Length of Term of	One year §6-210(a)
Licensing Withdrawal:	One year §§6-206(1) and 6-210(a)
Minimum Length of License Withdrawal:	
Vehicle Registration Suspension.	Following a conviction for vehicle homicide, the registrations of the vehicle or vehicles registered in the name of such person may be suspended. {The UVC does not recommend a suspension period.} §17-301
<u>Driving While License Suspended or Revoked for a DWI Offense:</u>	No criminal provisions in the UVC on this subject. Criminal sanctions given are for the general offense of operating a motor vehicle while driving privileges are either suspended or revoked.
Sanctions:	
Criminal:	
Imprisonment (Term):	Misdemeanor – 2 days to 6 months §6-303(a)
Mandatory Minimum Term:	None
Fine (\$ Range):	Not more than \$500 §6-303(a)
Mandatory Minimum Fine:	None
Administrative Licensing Actions:	Discretionary suspension/revocation extension for one year from the date the suspension or revocation

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would have terminated.
§6-303(b)

Mandatory Term of License Withdrawal:

None §6-303(b)

Vehicle Immobilization

The licensing agency is authorized to take possession of or otherwise immobilize a vehicle for respectively – 30 days or 60 days – if such vehicle has been driven by a person whose license is still revoked for a first or second drunk driving offense conviction. However, the vehicle may be released, if it is the only vehicle available to a household and such vehicle is equipped with an ignition interlock. §11-1601

Habitual Traffic Offender Provision:

No UVC provision

Provisions Requiring BAC Chemical Tests on Persons Killed in Traffic

Accidents:

UVC Has Such a Provision (Yes/No):
BAC Chemical Test Is Given to the
the Following Persons:

Yes §10-116

Driver:

Yes §10-116(a)

Vehicle Passengers:

No

Pedestrian:

Yes – For persons at least 16 years old
§10-116(a) and (b)

Provisions Prohibiting:

(1) The Possession of Open Containers of Alcoholic Beverages in a Vehicle Passenger Compartment:

Yes §11-901(b)

(2) The Consumption of Alcoholic Beverages by a driver of a motor vehicle:

Yes §11-901(a)