

MILLENNIUM DUI PREVENTION ACT

APPENDIX B

Reference **MILLENNIUM DUI PREVENTION ACT**
 Model DUI law developed by the National
 Committee on Uniform Traffic Laws and
 Ordinances

Basis for a DUI Charge:
 Standard DUI Offense: Under the influence of alcohol §102(a)(3)
 Illegal per Se Provisions (BAC/BrAC): I. ≥ .08^{1344and1345} §102(a)(1) and (2)
 II. Under the Extreme Influence of Alcohol-
 ≥.16 §102(b)(1) and (2)

Presumption (BAC/BrAC): **None**
 Types of Drugs/Drugs and Alcohol: Under the influence of (1) Any Drug, (2) a
 Combination of Drugs or (3) a Combination of
 Alcohol and Drugs §102(a)(4) and (5)

Chemical Breath Tests for Alcohol Concentration:
 Preliminary Breath Test Provision: **Yes** – Justification: articulable grounds § 109

Implied Consent Provision: Formal arrest is not required in all DUI
 situations. A request for a chemical test under
 the implied consent provisions may be made
 under the following conditions: (1) An arrest for
 a drunk driving offense; (2) where there is
 probable cause to believe that a person operated
 a vehicle under the influence of alcohol, drugs or
 controlled substances; or (3) where there is
 probable cause that a person under 21 years old
 has operated a vehicle with any amount of
 alcohol in their system. §107(a)

Implied Consent Provision Applies to Drugs: Yes §107(a)
 Refusal to Submit to Chemical Test
 Admitted into Evidence: **Yes** – (Criminal and Civil Cases) §103(c)
 A driver may be compelled to submit to a
 chemical test if involved in an accident
 resulting in either death or serious personal
 injury to another person and there is reason
 to believe that the driver was under the
 influence of alcohol or drugs. §110

Chemical Tests of Other Substances for Alcohol
Concentration Which Are Authorized
Under the Implied Consent Provision:
 Blood: **Yes** §107(a)
 Urine: **Yes** – Only for the Presence of Drugs §107(a)
 Other: "Other Bodily Substances" – Only for

¹³⁴⁴ The Millennium DUI Prevention Act's illegal per se provisions also make it an offense to operate a motor vehicle with a breath alcohol concentration of either .08 or more or, in cases where drivers are "under the extreme influence of alcohol," .16 or more.

¹³⁴⁵ Under §212(c), "alcohol concentration" means "either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath."

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the Presence of Drugs §107(a)

Adjudication of DWI Charges:

Mandatory Adjudication Provision (Yes/No):	No
Anti-Plea-Bargaining Provision (Yes/No):	No
Pre-Sentencing Investigation Provision (PSI)	Yes – Alcohol and Drug Screening required before sentencing §102(e)(1)

Sanctions for Refusal to Submit to a BAC Chemical Test:

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 mandatory year §107(e)(1)

Sanctions Following a Conviction for a DWI Offense¹³⁴⁶:

Criminal Sanctions – Imprisonment¹³⁴⁷:

Term (Day, Month, Years)

I. DUI- Illegal per se: BAC >.08 – first offense – 10 days to 1 year; second and subsequent offense (within 5 years) – 90 days to 1 year §102(c)(1) and 2)

II. Under the Extreme Influence of Alcohol: Illegal per se BAC ≥ .16 – first offense – 30 days to 1 year; second and subsequent offense (within 5 years) – 120 days to 1 year §102(d)(1) and (2)

Mandatory Minimum Term:

Under the Extreme Influence of Alcohol (Illegal per se BAC ≥ .16) first offense – 30 consecutive days; second and subsequent offense (within 5 years) – 60 consecutive days §102(d)(1) and (2)

Fine:

Amount (\$ Range):

First offense – \$250 to \$1,000; second and subsequent offense (within 5 years) – \$500 to \$1,000 §102(c)(1) and (2)

Under the Extreme Influence of Alcohol:

(Illegal per se BAC ≥ .16) – first offense – \$500 to \$1,000; second and subsequent offense to \$2,000

to

(within 5 years) – \$1,000 §102(d)(1) and (2)

Mandatory Min. Fine (\$):

First and subsequent offenses: \$500.

¹³⁴⁶ The Millennium DUI Prevention Act does not classify DUI offenses. Under most State laws these offenses would be considered misdemeanors because incarceration does not exceed one year.

¹³⁴⁷ A person sentenced to a term of incarceration may be allowed to serve such sentence under a home detention program, inpatient rehabilitation (treatment) center, minimum-security facility or other facility provided the offender is under confinement. §§102(h) and 212(i)

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Other Penalties:	
Community Service:	The court may order an offender to perform community service. §102(i)
Restitution	Yes – The court may order an offender to pay restitution to victims. §102(i)
Other:	The court also may order an offender to pay the costs associated with (1) incarceration, (2) home detention, (3) alcohol-drug evaluation or (4) an alcohol-drug treatment program. §102(i)
<u>Administrative Per Se Provision:</u>	Yes (1) BAC/BrAC $\geq .08$ or (2) Probable Cause of Driving Under the Influence of Alcohol, Drugs or Controlled Substances – Suspension – 180 mandatory days §107(d) and (e)(2) and (3) <u>Persons Under 21 Years Old: BAC/BrAC $\geq .02$¹³⁴⁸ Suspension – 180 mandatory days §108(a) and (f)(2)</u>
<u>Post DWI Conviction Licensing Action:</u>	<u>First offense – suspension; second and subsequent offense (within 5 years) – Revocation §102(c)(1) and (2) II. Under the Extreme Influence of Alcohol (Illegal per se BAC $\geq .16$) – first offense – Revocation; second and subsequent offense (within 5 years) – Revocation §102(d)(1) and (2)</u>
Term of License Withdrawal :	<u>First offense – 180 days; second and subsequent offense (within 5 years) – 1 year §102(c)(1) and (2) II. Under the Extreme Influence of Alcohol (Illegal per se BAC $\geq .16$) – first offense – 1 year; second and subsequent offense (within 5 years) – 2 years §102(d)(1) and (2)</u>
Mandatory Minimum Term of Withdrawal:	<u>First offense – 180 days; second and subsequent offense (within 5 years) – 1 year §102(c)(1) and (2) II. Under the Extreme Influence of Alcohol (Illegal per se BAC $\geq .16$) – first offense – 1 year; second and subsequent offense (within 5 years) – 2 years §102(d)(1) and (2)</u>
Other:	
Rehabilitation:	
Alcohol Education: Alcohol Treatment:	Yes ¹³⁴⁹ (for all DUI offenses) This may include inpatient treatment at an appropriate facility or institution. §102(e)(2)
Vehicle Impoundment/Confiscation:	
Authorized by Specific Provisions:	No {Covered by NCUTLO Safe Streets Act}

¹³⁴⁸ As measured by either a preliminary alcohol screening test or a test under the implied consent law. §103 and §108(a)

¹³⁴⁹ Reinstatement of an offender's driving privileges, as well as any restrictions that may be imposed thereon, may be based on the person's progress in a rehabilitation program. §102(e)(5)

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Ignition Interlock.

For any DUI offense, the court may order an offender to operate only motor vehicles equipped with ignition interlock devices. §102(f)

Provisions Prohibiting:

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

Yes^{1350and1351} §11-901(b)

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

Yes¹³⁵² §11-901(a)

¹³⁵⁰ The sanctions for violating this prohibition are an imprisonment term for not more than 30 days and/or a fine of not more than \$500. §211(c)

¹³⁵¹ This prohibition does not apply to a motor vehicle being used primarily for the transportation of persons for compensation or to the living quarters of a house coach, house trailer, or recreational vehicle nor does it apply to a vehicle operated by a chauffeur in his or her for-hire capacity." §211(b)

¹³⁵² This provision prohibits the consumption of alcoholic beverages while operating a motor vehicle on a 'public highway'. §211(a)

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