

**The Price
You'll Pay...**

**DUI in
North Dakota**

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NDDOT
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Ten Tips to Save Your Life

- Always plan ahead. If you wait until you start drinking to figure out how you'll get home, it's too late.
- Designate a sober driver, someone who will not drink alcohol that night, to drive you home. Next time you can return the favor.
- Choose alcohol-free versions of your favorite drinks.
- Always eat food when you are drinking alcohol.
- Make arrangements to stay at someone's house within walking distance of the place you are drinking.



- Take a taxi home or call a friend.
- Many people are concerned about leaving their car in a parking lot overnight. It is better to arrive home safely than risk driving under the influence.
- Buzzed driving is drunk driving. However, even if you don't feel buzzed, you may still test over the legal limit.
- You may still be under the influence the morning after a night of drinking. No kidding! You can be cited for DUI/ APC the next morning if you test over the legal limit.
- Always drive sober and alert.

Buckle up, every trip, every time.

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Details regarding Commercial Drivers License privileges are beyond the scope of this book. Contact NDDOT Information at 701.328.4353 with questions.

The North Dakota Department of Transportation (NDDOT) provides this booklet solely as a reference and as a public service. It is not intended as legal advice or a substitute for legal advice. Individual circumstances may vary; it is recommended that interested individuals should always consult a professional at NDDOT and seek legal counsel. The information in this booklet is subject to change. While every effort is made to ensure the accuracy of this information, the NDDOT is not responsible for any errors or omission which may occur due to printing or other causes.

The Price You'll Pay...DUI in North Dakota

A DUI (Driving Under the Influence) or APC (Actual Physical Control) citation is a serious offense. If convicted, one can expect that a DUI could cost up to \$10,000. This does not account for lost opportunity costs, loss of employment, loss of freedom, and the potential loss of life.

Every year, 50-60 people die in alcohol-related crashes in North Dakota. This is a statistic that should be zero. These deaths are 100 percent preventable. This booklet has been prepared to inform you about the administrative issues you will face if cited for a DUI or APC.

Important Definitions

Driving Under the Influence (DUI)

Driving while under the influence of alcohol or drugs. If you drive while having an alcohol content of .08% or greater, the law says you are driving while under the influence of alcohol. If you are under 21, the zero tolerance law puts the alcohol content limit at .02%. If you are operating a commercial motor vehicle, the CDL law puts the alcohol content limit at .04%.

Actual Physical Control (APC)

Being in actual physical control of a vehicle while under the influence of alcohol or drugs. Actual Physical Control means that you are in or near a vehicle, and you have the potential of driving the vehicle. If you are in actual physical control of a motor vehicle while having an alcohol content of .08% or greater, the law says you are in actual physical control while under the influence of alcohol. If you are under 21, the zero tolerance law puts the alcohol content limit at .02%. If you are operating a commercial motor vehicle, the CDL law puts the alcohol content limit at .04%.

Report and Notice Under Chapter 39-20 or 39-06.2 Form

This form has your 25-day driving permit on the front, and is on a heavy sheet of paper. You will find important information about your DUI/APC arrest on both sides. Read all of the information carefully on both sides. The Report and Notice form is issued to you by a law enforcement officer.

25-day Driving Permit

About half-way down the front side of the Report and Notice Under Chapter 39-20 or 39-06.2 Form, you will see a section titled "Temporary Operator's Permit." If it is marked "VALID," you are allowed to drive for 25 days from the date it was issued. If it is marked "NOT VALID," you do not have driving privileges.

SR-22 Filing

This is a form filed by your auto insurance company with the North Dakota Department of Transportation (NDDOT). You must contact your auto insurer so they file the paperwork. See page 11 for more information.

The Process After a DUI/APC

There are two different processes that take place after a DUI/APC arrest: the Administrative Process and the Criminal Court Process.

Administrative Process

NDDOT process that deals with your driving privileges.

Criminal Court Process

The criminal court process deals with criminal charges. If you are convicted of DUI/APC in criminal court, the court can sentence you to pay fines and fees, and can sentence you to serve time in jail.



The following pages cover the administrative process which involves your license at the North Dakota Department of Transportation.

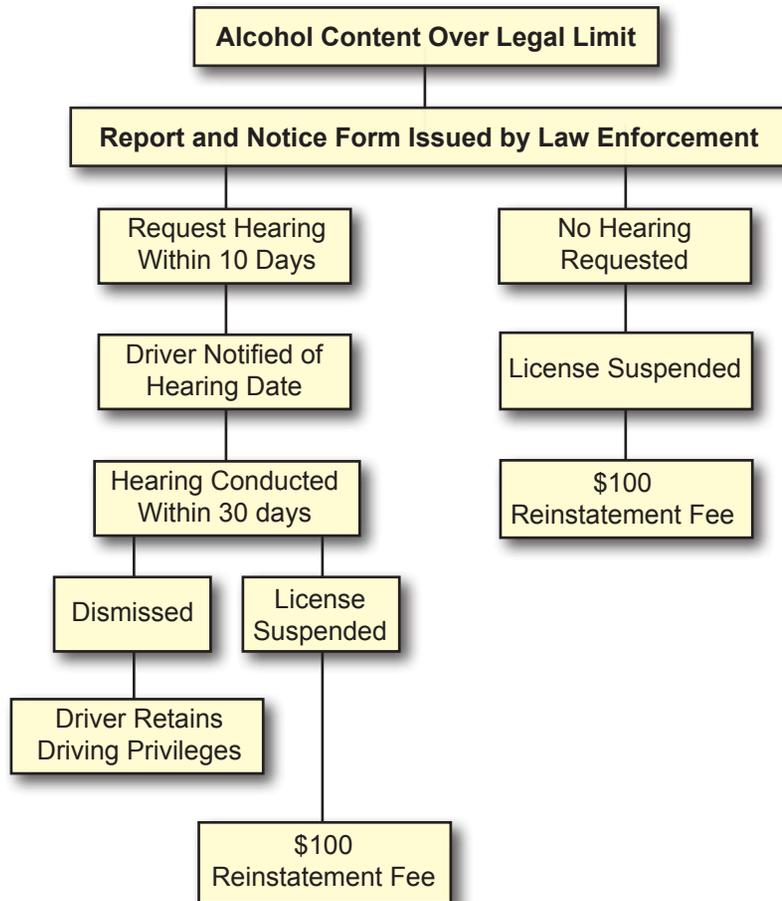
In addition to the administrative process, you will also need to go through the criminal court process, which is outside the scope of this booklet. You may want to visit with an attorney about this.

Consequences

Situation 1: You took an Alcohol Content (AC) test and were over the legal limit.

Option 1: You do not request a hearing. The suspension period will begin after 25 days as stated on the Report and Notice form.

Option 2: You may request a hearing from the North Dakota Department of Transportation within ten days. See the front side of your Report and Notice form for details. The hearing will take place within 30 days of the date you were issued your 25-day permit. That hearing will either dismiss the suspension or suspend your license.



Consequences

Suspension Periods for DUI

1st offense

91 days suspended if alcohol content is .08%* - .17%.
180 days suspended if .18% or greater.

2nd offense within 5 years

365 days suspended if alcohol content is .08%* - .17%.
2 years if alcohol content is .18% or greater.

3rd offense or greater within 5 years

2 years suspended if alcohol content is .08%* - .17%.
3 years if alcohol content is .18% or greater.

See page 7 for additional consequences.



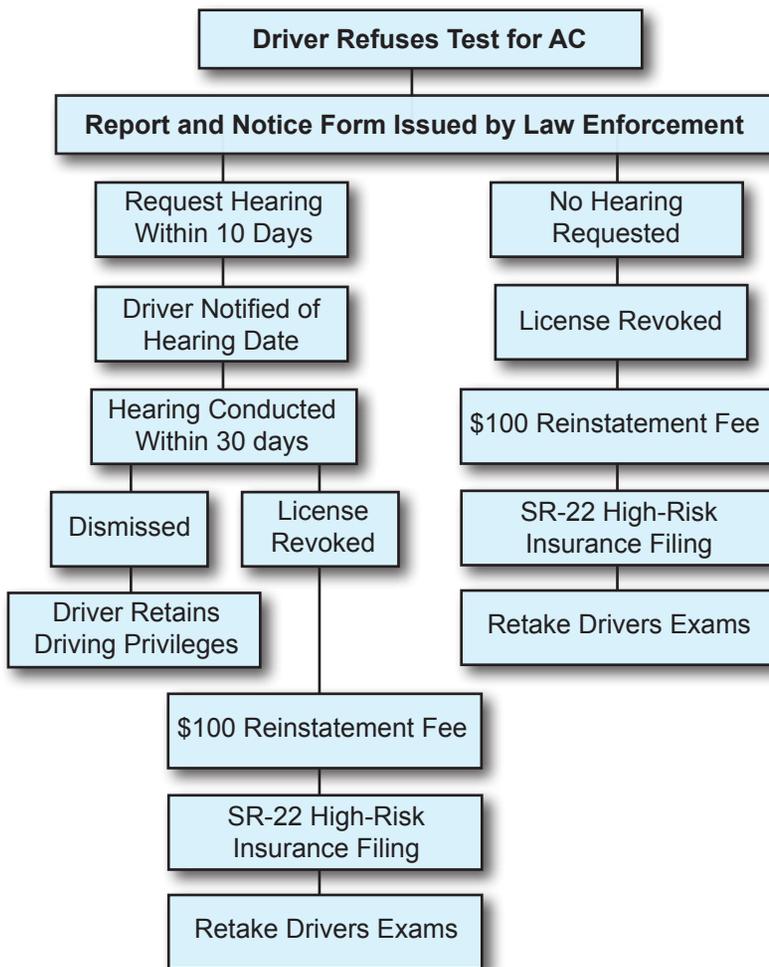
*The lower limit of AC is .02% for those under 21 years.

Consequences

Situation 2: You refused to take an Alcohol Content (AC) test or drug screening.

Option 1: You do not request a hearing. Your license will be revoked after 25 days as stated on the Report and Notice form.

Option 2: You may request a hearing from the North Dakota Department of Transportation within ten days. See the front side of Report and Notice form for details. Your hearing will take place within 30 days of your request. That hearing will either dismiss the revocation or revoke your license.



Consequences

Revocation Periods for Refusing

1st offense

1 year license revoked

2nd offense within 5 years

3 years license revoked

3rd offense or greater within 5 years

4 years license revoked

See additional consequences below.

Additional Consequences for Suspension or Revocation

Reinstatement Fee: You will be required to pay \$100 reinstatement fee if your license is suspended or revoked.

Retaking examinations: If your license is revoked, you must complete a new license application, retake and pass your written driver's test and the behind the wheel road test.



Alcohol evaluation and treatment:

If you are convicted in court, you will be required to undergo an alcohol evaluation. If your evaluator states that you require treatment, you will need to complete treatment in order to get your license back. See page 10 for more information.

SR22 Filing: If you are convicted in court, you will be required to have your insurance company file an SR22 form. See Insurance Filing on page 11.

Suspension and Revocation

What is the difference between being suspended and being revoked?

If your license is suspended, you will get it back after the suspension period and after paying the \$100 reinstatement fee. If you are convicted in criminal court of DUI or APC, then you must meet additional requirements before getting your license back. You will not be required to take the written test and driving test to get your license back unless there are other reasons that require you to take the tests.

If your license is revoked, your license is lost until the revocation period is over, and you meet all other requirements. You must take and pass the written exam and behind the wheel driving exam as though you never had a license.



What do I need to do to have my license reinstated?

Your driving privileges will be reinstated after the end of the suspension or revocation period and after you complete all requirements for reinstatement. At a minimum:

1. You must pay a \$100 reinstatement fee.
2. If your license was revoked for refusal, you must take and pass the written and driving tests.
3. If convicted in court, you must have your insurance company file the SR22 form and you must complete the court-ordered alcohol evaluation and treatment. See page 11 for more information on the SR22 form.

Can I drive any type of motor vehicle while my license is suspended?

No.

Suspension and Revocation

Can my child who has a driving permit drive me around?

If your child is driving on an instruction permit and your license is suspended or revoked, you cannot be the supervising adult in the vehicle with him or her. The supervising adult must be a licensed driver.

I have a Commercial Drivers License. Will I lose that privilege?

Yes. If your driving privileges are suspended or revoked, you will lose your CDL for at least one year. You may lose your CDL for life.



What is an Order of Suspension?

If you are convicted in criminal court, the Drivers License Division will mail an Order of Suspension to the address on your driving record. This order states that a conviction is on your record, and lists the suspension period and other information.

If you have not updated your address with the North Dakota Department of Transportation, you will not receive the Order of Suspension. However, by law, your suspension is still in effect and you must meet all of the requirements stated in order to reinstate your license.

Work Permits (Temporary Restricted Licenses)

If your driving privileges are revoked, you will not be eligible for a work permit.

If your driving privilege is suspended, you may qualify for a work permit if this is your first alcohol offense in five years and you have completed the first 30 days of your suspension.

Your application for a work permit will include a review of your driving record. If your driving record shows too many traffic violations or convictions, you will not receive a work permit.

An application form for a work permit can be printed from www.dot.nd.gov or mailed to you upon request. See the contact information at the end of this booklet.

Alcohol Evaluation and Treatment

If you are convicted of Driving Under the Influence or Actual Physical Control in criminal court, you will be required to complete an alcohol evaluation as part of the requirements for getting your license back. If the evaluator recommends treatment, you will need to enroll in treatment. If you quit treatment before it is completed, you will not meet one of the requirements for reinstatement and your license will remain suspended or revoked.

Where can I find a list of alcohol treatment providers?

You may go to www.findtreatment.samhsa.gov or www.nd.gov/dhs/providers for a list, contact a local human service center, or contact your medical doctor for a recommendation.

How often do I need an alcohol evaluation?

If you have had an alcohol evaluation in the past six months, you will not need another evaluation.

Insurance Filing

If you are convicted in criminal court of Driving Under the Influence or Actual Physical Control, you are required to have an SR-22 Form on file with the Drivers License Division. Contact your car insurance agent to submit the form. Your agent will send the form to the Drivers License Division.

How long do I need to keep the SR-22 Form on file with the Drivers License Division?

You must keep the form on file for one year after your driving privileges are reinstated, or one year from the date you were issued a work permit (temporary restricted license).

If my car insurance is cancelled, what can I do then?

You must maintain your insurance or provide a \$25,000 security deposit with the Bank of North Dakota. Contact the Drivers License Division if you wish to do this.

If you cancel your insurance, your insurance company will notify us of the cancellation. If you do not have a security deposit at the time of cancellation, your driving privileges will be suspended again for "failure to maintain proof of insurance." You will lose your driving privileges until you have a new SR-22 Form on file with the Drivers License Division, and pay a \$50 fee.

If you choose to place a \$25,000 security deposit, it must be kept on file at the bank for one year.



Driving Records

If you would like a copy of your driving record, please mail a request that includes your complete name, mailing address, and driver's license number to the address listed under Contact Information. You must also include a \$3 fee. Or, you may fax your information along with a current credit card number, expiration date, and credit card verification to 701.328.2435.

A limited driving record can be obtained online at www.dot.nd.gov/public/licensing.htm. However, this will not include your current point total, violations or convictions that are more than three years old, violations that have been assigned less than three points, or crash information.

Can my insurance company see my driving record?

Yes, if your insurance company does a record check, it will see violations within the last three years with a point total of three or more.

How long will my alcohol offense stay on my driving record?

It will stay on the part of your driving record that is available to the public for three years and it will stay on the part of the driving record that is available to courts and law enforcement for seven years.



Contact Information

It is important to keep your mailing address updated with the Drivers License Division. You may go to www.dot.nd.gov and select Drivers License Services to change your address online or call 701.328.4353.

The contact information for the Drivers License Division is:

Drivers License Division
608 East Boulevard Avenue
Bismarck, North Dakota 58505-0700
Phone: 701.328.2604
Fax: 701.328.2435
Web site: www.dot.nd.gov