

PUNISHMENT LEVELS FOR IMPAIRED DRIVING

NOTE WELL: Structured sentencing does not apply. This applies for offenses occurring on or after December 1, 1997.

Level	One	Two	Three	Four	Five
AGGRAVATING/ MITIGATING FACTORS	Two or more grossly aggravating factors	One grossly aggravating factor	Aggravating factors outweigh mitigating factors	No aggravating/mitigating factors or they counter- balance each other	Mitigating factors outweigh aggravating factors
FINE ⁽¹⁾	Up to \$4,000	Up to \$2,000	Up to \$1,000	Up to \$500	Up to \$200
IMPRISONMENT: FULL MAXIMUM MAXIMUM UNDER SPLIT SENTENCE	2 years 6 months	1 year 3 months	6 months (may suspend) 1 1/2 months	120 days (may suspend) 48 hours	60 days (may suspend) 24 hours
MINIMUM REQUIRED SENTENCE	30 days in jail	7 days in jail	72 hours in jail or 72 hours community service or 90 days without driving or Combination of above	48 hours in jail or 48 hours community service or 60 days without driving or Combination of above	24 hours in jail or 24 hours community service or 30 days without driving or Combination of above
CONDITIONS OF PROBATION Probation note (2) is applicable to all five levels of punishment.	(1) required if probation imposed. The term of imprisonment may be suspended only if a condition of special proba- tion is imposed to require the defendant to serve 30 days imprisonment.	(1) required if probation imposed. The term of imprisonment may be suspended only if a condition of special proba- tion is imposed to require the defendant to serve 7 days imprisonment.	(1) required if probation imposed.	(1) required if probation imposed.	(1) required if probation imposed.
LENGTH OF DMV REVOCAION	No prior conviction involving impaired driving in past three years: 1 year revocation One such conviction in past three years: four-year revocation, but may apply after two years if record good.	No prior conviction involving impaired driving in past three years: 1 year revocation One such conviction in past three years: four-year revocation, but may apply after two years if record good.	One year	One year	One year
LIMITED DRIVING PRIVILEGE	No	No	No	Yes, after 6 months revocation, if no prior convictions for offense involving impaired driving within 7 years of date of new offense; provided other conditions are met. G.S. 20-16.2(e1) (i.e., substance abuse assessment has been obtained and has completed recommended treatment or education).	

PROBATION NOTES: (1) If placed on probation, defendant must obtain a substance-abuse assessment and must either submit to treatment if the assessment shows it is needed or successfully complete an Alcohol and Drug Education Traffic School (see G.S. 20-17.6)
(2) The judge continues to have discretion to impose other appropriate conditions of probation.

SENTENCING NOTES: 1. Under G.S. 15A-1351(a), the imprisonment portion of a split sentence (special probation) may not exceed 6 months or one-fourth of the statutory maximum, whichever is less.
2. Pursuant to G.S. 15A-1351(a) the judge may order that a term of imprisonment imposed as a condition of probation under any level of punishment be served as an inpatient in a state facility for treatment of alcoholism or substance abuse. See also G.S. 20-179(k1).
3. Under G.S. 20-17.6 a person convicted of impaired driving, to be eligible for a driver's license after the period of revocation has run, must obtain a substance abuse assessment and complete either the education or treatment required. This requirement applies regardless of whether defendant is placed on probation.

NOTE WELL: G.S. 20-138.5(b) *HABITUAL IMPAIRED DRIVING* states that for offenses occurring on or after December 1, 1997 "a person convicted of violating this section shall be punished as a Class F felon and shall be sentenced to a minimum active term of not less than 12 months of imprisonment, which shall not be suspended."

FOOTNOTES: [1] For offenses occurring prior to December 1, 1998, the maximum fine a defendant may be subject to for a level one punishment is \$2,000, for a level two punishment is \$1,000, for a level three punishment is \$500, for a level four punishment is \$250, and for a level five punishment is \$100. Effective December 1, 1998, the maximum fine a defendant may be subject to for a level one punishment is \$4,000, for a level two punishment is \$2,000, for a level three punishment is \$1,000, for a level four punishment is \$500, and for a level five punishment is \$200.