

DUI Law Grading and Sentencing Guide

(Section 3802 of Pennsylvania Vehicle Code)

DUI Law sections violated	1 ST in 10 Years	2 ND in 10 Years	3 RD in 10 Years	4 TH in 10 Years
1. 3802 (a)(1) Incapable of Safe Driving 1. No BAC available. 2. No Implied Consent Violation.* 3. No Injury or Damage (accident)**	Ungraded Misdemeanor Mandatory 6 months Probation. Fine \$300. AHSS No License Suspension Full D&A Assessment if indicated by CRN (6/30/2009)	Ungraded Misdemeanor Jail 5 days to 6 months Fine \$300 to \$2,500 AHSS License suspension 12 months Ignition Interlock 1 year Full D&A Assessment (06/30/2009)	Misdemeanor 2 Jail 10 days to 2 years Fine \$500 to \$5,000 License Suspension 12 months Ignition Interlock 1 year Full D&A Assessment (6/30/2006)	
2. 3802 (a)(2) BAC .08% to less than .10%	Ungraded Misdemeanor Jail 48 hours to 6 months Fine \$500 to \$5,000 AHSS License Suspension 12 months Full D&A Assessment (6/30/2009)	Ungraded Misdemeanor Jail 30 days to 6 months Fine \$750 to \$5,000 AHSS License Suspension 12 months Ignition Interlock 1 year Full D&A Assessment 06/30/2006)	Misdemeanor 1 Jail 90 days to 5 years Fine \$1,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)	Misdemeanor 1 Jail 1 to 5 years Fine \$1,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)
3. 3802 (b) BAC .10% to less than .16%	Ungraded Misdemeanor Jail 72 hours to 6 months Fine \$1,000 to \$5,000 AHSS License Suspension 12 months Full D&A Assessment (06/30/2006)	Misdemeanor 1 Jail 90 days to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)	Misdemeanor 1 Jail 1 to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)	Misdemeanor 1 Jail 1 to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)
4. 3802 (a)(1) with damage or injury**	Ungraded Misdemeanor Jail 72 hours to 6 months Fine \$1,000 to \$5,000 AHSS License Suspension 12 months Full D&A Assessment (06/30/2006)	Misdemeanor 1 Jail 90 days to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)	Misdemeanor 1 Jail 1 to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)	Misdemeanor 1 Jail 1 to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)
5. 3802 (e) Minors .02% or greater	Ungraded Misdemeanor Jail 72 hours to 6 months Fine \$1,000 to \$5,000 AHSS License Suspension 12 months Full D&A Assessment (06/30/2006)	Misdemeanor 1 Jail 90 days to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)	Misdemeanor 1 Jail 1 to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)	Misdemeanor 1 Jail 1 to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)
6. 3802 (f) Commercial .04% or greater	Ungraded Misdemeanor Jail 72 hours to 6 months Fine \$1,000 to \$5,000 AHSS License Suspension 12 months Full D&A Assessment (06/30/2006)	Misdemeanor 1 Jail 90 days to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)	Misdemeanor 1 Jail 1 to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)	Misdemeanor 1 Jail 1 to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)
7. 3802 (f) School Vehicles .02% or greater	Ungraded Misdemeanor Jail 72 hours to 6 months Fine \$1,000 to \$5,000 AHSS License Suspension 12 months Full D&A Assessment (06/30/2006)	Misdemeanor 1 Jail 90 days to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)	Misdemeanor 1 Jail 1 to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)	Misdemeanor 1 Jail 1 to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)
8. 3802 (f) Commercial/School Vehicles incapable of safe driving.	Ungraded Misdemeanor Jail 72 hours to 6 months Fine \$1,000 to \$5,000 AHSS License Suspension 12 months Full D&A Assessment (06/30/2006)	Misdemeanor 1 Jail 90 days to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)	Misdemeanor 1 Jail 1 to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)	Misdemeanor 1 Jail 1 to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)
8. 3802 (c) BAC .16 or higher	Ungraded Misdemeanor Jail 72 hours to 6 months Fine \$1,000 to \$5,000 AHSS License Suspension 12 months Full D&A Assessment (06/30/2006)	Misdemeanor 1 Jail 90 days to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)	Misdemeanor 1 Jail 1 to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)	Misdemeanor 1 Jail 1 to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)
9. 3802 (a1) with an Implied Consent Violation*	Ungraded Misdemeanor Jail 72 hours to 6 months Fine \$1,000 to \$5,000 AHSS License Suspension 12 months Full D&A Assessment (06/30/2006)	Misdemeanor 1 Jail 90 days to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)	Misdemeanor 1 Jail 1 to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)	Misdemeanor 1 Jail 1 to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)
10. 3802 (d) Controlled Substances	Ungraded Misdemeanor Jail 72 hours to 6 months Fine \$1,000 to \$5,000 AHSS License Suspension 12 months Full D&A Assessment (06/30/2006)	Misdemeanor 1 Jail 90 days to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)	Misdemeanor 1 Jail 1 to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)	Misdemeanor 1 Jail 1 to 5 years Fine \$2,500 to \$10,000 License Suspension 18 months Ignition Interlock 1 year Full D&A Assessment (02/01/2004)

ARD (Accelerated Rehabilitative Disposition)

A DUI offense is eligible for ARD under the following circumstances.

- It is a first offense within ten years.
- No person, other than the offender, was killed or seriously injured.
- There was no passenger in the offender's vehicle under the age of 14 at the time of the offense.

Mandatory License suspension for ARD is as follows:

- No suspension if BAC is under .10% and offender is **not** a minor.
- A suspension of 30 days if BAC .10% to < .16%.
- A suspension of 60 days if BAC .16% or greater, BAC unknown, DUI involving drugs or violations of Implied Consent.
- **A suspension of 90 days if the offender is a minor.**

Mandatory Conditions of ARD for a DUI offense.

- AHSS
- Probation Supervision of a minimum of 6 months up to a maximum of 12 months.
- Full D&A Assessment, if BAC .16 or greater or if CRN Profile report indicates the need for further evaluation for D&A counseling or treatment. (06/30/2009)
- Mandatory license suspension as indicated.
- Restitution to any person who suffered a financial loss.
- Payment of any other fee, surcharge or cost required by law including fees for AHSS, evaluation and Treatment.
- Any other condition established by the Court.

All penalties include up to 150 hours of community service and a Court Reporting Network (CRN) drug and alcohol evaluation.

A full drug and Alcohol Assessment is required for a DUI offender prior to sentence if any one of the following applies:

1. The Offender has a prior DUI offense within 10 years.
2. The Court Reporting Network Evaluation indicates a need for further evaluation for counseling or treatment.
3. The offender's BAC was .16% or greater.

When a Full Assessment is completed and the assessment indicates a need for counseling or treatment, the Court is required to order treatment as indicated by the Assessment. When the Court Orders treatment or counseling, the Court is required to order the statutory maximum as the top end of the Offender's sentence.

*A Violation of 3802 (a) (1) that involves an Implied Consent Violation is subject to the highest penalty.

**Violations of 3802 (a) (2) and 3802 (a) (1) that involve an accident with injury or damage are subject to the 2nd highest penalty level.