

General Consequences of DWI
Arrests and Convictions

Important Disclaimer: this *is not* a complete and comprehensive list of all consequences resulting from DWIs. The law is always changing; what may be applicable at the time of your trial or plea may not be applicable throughout any term of probation or deferred adjudication. Any advice on the availability of expungements or orders of non-disclosure is subject to changing laws in the future. Further, no two DWIs are exactly alike; your particular circumstances (i.e., prior criminal history and arrests, present and future employment requirements, current and future higher education plans, future loan applications, etc.) are also subject to change in the future. Thus, any representation provided by your attorney regarding the effect of a DWI arrest or conviction is limited to the information available to the attorney at the time the advice is given.

With the above in mind, there are some general and unavoidable consequences to DWI arrests and convictions.

Misdemeanor DWI Arrests

After an arrest on suspicion of Driving While Intoxicated, you will be asked to submit to a breath or blood test for the presence of alcohol. Your answer and the results of any subsequent test result in the following consequences on your driver's license.

<p>Breath/Blood Test Failure (i.e., you volunteered a breath or blood sample and the test showed a BAC > 0.08 at the time of the test)</p>	<p>(1) 90-day driver's license suspension if the person's driving record shows no alcohol-related or drug-related enforcement contact during the 10 years preceding the date of the person's arrest; or</p> <p>(2) one-year driver's license suspension if the person's driving record shows one or more alcohol-related or drug-related enforcement contacts during the 10 years preceding the date of the person's arrest. Tex. Trans. Code § 524.022(a)</p>
<p>Breath/Blood Test Refusal (i.e., you were asked to provide a sample by the arresting officer and you refused to provide one)</p>	<p>(1) w/no prior alcohol-related or drug-related contacts with law enforcement in the 10 years preceding your arrest; DPS will suspend your license for 180 days, Tex. Trans. Code § 724.035(a).</p> <p>(2) If one or more prior alcohol-related or drug-related contacts w/law enforcement in the 10 years preceding your arrest, DPS will suspend your license for two years. Tex. Trans. Code § 724.035(b).</p>

<p>Breath/Blood Test Refusal cont.</p>	<p>(3) A suspension or denial takes effect on the 40th day after the date on which you receive notice of suspension or denial. Tex. Trans. Code § 724.035(c)</p> <p>(4) The fact that you refused to provide a breath or blood sample can (and most likely will) be used against at trial. Tex. Trans. Code § 724.061.</p>
---	--

Misdemeanor DWI Convictions

<p>DWI 1st; BAC < 0.15 w/no priors (Class B Misdemeanor)</p>	<p>(1) Confinement in the county jail anywhere from 72 hours to 180 days and up to a \$2,000.00 fine. Tex. Pen. Code § 49.04(b).</p> <p>(2) Probation is possible under Tex. Code Crim. Proc. Art. 42A.053.</p> <p>(3) Judge <i>may</i> require an ignition interlock device be installed on your vehicle and prohibit you from operating a motor vehicle not equipped with that device for at least half the term of probation. Tex. Code Crim. Proc. Art. 42A.408(b) and (f).</p> <p>(4) Deferred Adjudication is not available under Tex. Code Crim. Proc. Art. 42A.102(b)(1)(A).</p> <p>(5) Driver's License is automatically suspended for not less than 90 days or more than one year (90 days – 1 year). Tex. Trans. Code § 521.344(a).</p> <p>(6) Suspension begins on a date not earlier than the date of conviction or later than the 30th day after the date of conviction. Tex. Trans. Code § 521.344(a).</p> <p>(7) If the DWI (a) did not result in a motor vehicle accident involving another person, (b) you are placed on probation, successfully complete probation and all its conditions, (c) you have not previously been placed on probation or deferred adjudication for any offenses other than traffic offenses, and (d) are not subsequently placed on probation or deferred adjudication for any offense other than traffic offenses, you may petition the court for an order of non-disclosure. Tex. Govt. Code § 411.0731.</p> <p>(8) Expunction is not available.</p>
--	--

	<p>(9) A \$1,000.00 surcharge will be assessed on your driver’s license for each of the next three years. Tex. Trans. Code § 708.102.</p>
<p>DWI 1st; BAC < 0.15; open container present in vehicle; w/no priors (Class B Misdemeanor)</p>	<p>(1) Confinement in the county jail anywhere from six days to 180 days and up to a \$2,000.00 fine. Tex. Pen. Code § 49.04(c).</p> <p>(2) Probation is possible under Tex. Code Crim. Proc. Art. 42A.053.</p> <p>(3) Judge <i>may</i> require an ignition interlock device be installed on your vehicle and prohibit you from operating a motor vehicle not equipped with that device for at least half the term of probation. Tex. Code Crim. Proc. Art. 42A.408(b) and (f).</p> <p>(4) Deferred Adjudication is not available under Tex. Code Crim. Proc. Art. 42A.102(b)(1)(A).</p> <p>(5) Driver’s License is automatically suspended for not less than 90 days or more than one year (90 days – 1 year). Tex. Trans. Code § 521.344(a).</p> <p>(6) Suspension begins on a date not earlier than the date of conviction or later than the 30th day after the date of conviction. Tex. Trans. Code § 521.344(a).</p> <p>(7) If the DWI (a) did not result in a motor vehicle accident involving another person, (b) you are placed on probation, successfully complete probation and all its conditions, (c) you have not previously been placed on probation or deferred adjudication for any offenses other than traffic offenses, and (d) are not subsequently placed on probation or deferred adjudication for any offense other than traffic offenses, you may petition the court for an order of non-disclosure. Tex. Govt. Code § 411.0731.</p> <p>(8) Expunction is not available.</p> <p>(9) A \$1,000.00 surcharge will be assessed on your driver’s license for each of the next three years. Tex. Trans. Code § 708.102.</p>
<p>DWI 1st; BAC > 0.15 (Class A Misdemeanor)</p>	<p>(1) Confinement in the county jail up to one year and up to a \$4,000.00 fine. Tex. Pen. Code § 49.04(d).</p>

	<p>(2) Probation is possible under Tex. Code Crim. Proc. Art. 42A.053.</p> <p>(3) Judge is required to order an ignition interlock device be installed on your vehicle and prohibit you from operating a motor vehicle not equipped with that device for at least half the term of probation. Tex. Code Crim. Proc. Art. 42A.408(c) and (f).</p> <p>(4) Deferred Adjudication is not available under Tex. Code Crim. Proc. Art. 42A.102(b)(1)(A).</p> <p>(5) Driver's License is automatically suspended for not less than 90 days or more than one year (90 days – 1 year). Tex. Trans. Code § 521.344(a).</p> <p>(6) Suspension begins on a date not earlier than the date of conviction or later than the 30th day after the date of conviction. Tex. Trans. Code § 521.344(a).</p> <p>(7) An order on non-disclosure is not available. Tex. Govt. Code § 411.0731(a)(1).</p> <p>(8) Expunction is not available.</p> <p>(9) A \$2,000.00 surcharge will be assessed on your driver's license for each of the next three years. Tex. Trans. Code § 708.102(c)(2).</p>
<p>DWI 2nd (Regardless of BAC or presence of open container) (Class A Misdemeanor)</p>	<p>(1) Confinement in County Jail for a minimum of 30 days and up to one year and up to a \$4,000.00 fine. Tex. Pen. Code § 49.09(a).</p> <p>(2) Probation is possible under Tex. Code Crim. Proc. Art. 42A.053.</p> <p>(3) Judge is required to order an ignition interlock device be installed on your vehicle and prohibit you from operating a motor vehicle not equipped with that device for at least half the term of probation. Tex. Code Crim. Proc. Art. 42A.408(c) and (f).</p> <p>(4) Deferred Adjudication is not available under Tex. Code Crim. Proc. Art. 42A.102(b)(1)(A).</p>

	<p>(5) Driver's License is automatically suspended for not less than 180 days or more than two year (180 days – 2 years). Tex. Trans. Code § 521.344(a)(2)(C).</p> <p>(6) Suspension begins on a date not earlier than the date of conviction or later than the 30th day after the date of conviction. Tex. Trans. Code § 521.344(a).</p> <p>(7) An order on non-disclosure is not available. Tex. Govt. Code § 411.0731(a)(1).</p> <p>(8) Expunction is not available.</p> <p>(9) A \$1,500.00 surcharge will be assessed on your driver's license for each of the next three years if the prior DWI was committed within the previous 36 months. Tex. Trans. Code § 708.102(c)(1).</p>
<p>DWI 2nd; w/previous conviction within 5 years (Regardless of BAC or presence of open container) (Class A Misdemeanor)</p>	<p>(1) Confinement in County Jail for a minimum of 30 days and up to one year and up to a \$4,000.00 fine. Tex. Pen. Code § 49.09(a).</p> <p>(2) Probation is possible under Tex. Code Crim. Proc. Art. 42A.053.</p> <p>(3) Judge is required to order an ignition interlock device be installed on your vehicle and prohibit you from operating any vehicle without that device for the entire length of any driver's license suspension and for the entire year following the suspension's termination. Tex. Pen. Code § 49.09(h).</p> <p>(4) Deferred Adjudication is not available under Tex. Code Crim. Proc. Art. 42A.102(b)(1)(A).</p> <p>(5) Driver's License is automatically suspended for not less than 180 days or more than two year (180 days – 2 years). Tex. Trans. Code § 521.344(a)(2)(C).</p> <p>(6) Suspension begins on a date not earlier than the date of conviction or later than the 30th day after the date of conviction. Tex. Trans. Code § 521.344(a).</p> <p>(7) An order on non-disclosure is not available. Tex. Govt. Code § 411.0731(a)(1).</p>

	<p>(8) Expunction is not available.</p> <p>(9) A \$1,500.00 surcharge will be assessed on your driver's license for each of the next three years if the prior DWI was committed within the previous 36 months. Tex. Trans. Code § 708.102(c)(1).</p>
--	--