

## Alcohol Crimes and Penalties

### Alcohol and Crimes and Penalties under Minnesota Law

Riverland Community College is obligated by Minnesota Statute to inform all individuals connected with the college how state and federal statutes deal with alcohol and controlled substances. Minnesota has many statutes which regulate and control the use and abuse of alcohol. In addition to driving while under the influence (DWI) laws, Minnesota has laws regulating the sale, purchase, possession and consumption of alcohol.

### DWI Law

There are four DWI and implied consent packages that aim at preventing the operation of motor vehicles, boats, snowmobiles/all terrain vehicles, and aircraft by inebriated persons.

### Elements of DWI Offense

Minnesota has one of the most comprehensive DWI Statutes in the nation. The elements of the offense may be outlined as follows: It is a crime for any person to drive, operate, or be in physical control of a motor vehicle, within this state or upon the ice of any boundary water of this state, while the person is under the influence of alcohol, a controlled or hazardous substance, or a combination of the two, or the person has an "alcohol concentration" of 0.08 or more.

### Driving, Operating and Physical Control

The statute does not prohibit only "driving" while under the influence, but extends to "operating" and "physical control" of the motor vehicle. While "driving" normally includes steering a self-propelled vehicle, "operating" includes a broader range of conduct, which includes starting motors, steering towed vehicles, etc. "Physical Control" is broader yet, and applies to any person who places himself or herself in a position to either restrain a vehicle from being moved or to direct its motion, including persons found alone, asleep, in a parked vehicle.

### Motor Vehicle

The law applies to any kind of motor vehicle including farm tractors, bulldozers, front-end loaders, mopeds, garden tractors and riding lawn mowers.

## Under the Influence

"Under the influence" is defined in terms of impaired ability to drive safely. It is not synonymous with an "alcohol concentration" of 0.08 or more. On the contrary, an alcohol concentration of "more than 0.04 and less than 0.08" is relevant evidence of whether or not the person is under the influence of alcohol. In reality, most human beings are visibly impaired at alcohol concentrations well below 0.08. Accordingly, it cannot be assumed that it is "legal" to drive so long as one remains below the 0.08 line.

## Criminal Penalties

Generally, a first time offense is a misdemeanor, with a maximum sentence of 90 days in jail and a fine of \$700. If the person has a prior "impaired driving conviction" within the previous 10 years, the crime is a gross misdemeanor, raising the maximum sentence to a year in jail and a fine of \$3,000. Additionally, gross misdemeanor penalties can be enhanced up to two years in jail depending upon alcohol concentration levels and number of prior convictions or license revocations. "Impaired driving convictions" include adult convictions and juvenile adjudications. The crime is also considered a gross misdemeanor if a child under the age of 16 is present in the motor vehicle with the driver. If the driver violates a RR crossing law, or if the driver's alcohol concentration is .20 or more, it is a separate crime to refuse to submit to an alcohol concentration test.

There are increased penalties for repeat DWI offenders. Judges are required to order those convicted of DWI and related crimes to serve their sentences back to back (consecutively) instead of merging all sentences into one (concurrently). Those who drink and drive in different types of vehicles - including cars, snowmobiles, board, and all-terrain vehicles will find those violations "stacking" up against each other.

Driver License Revocations Drunk drivers also lose their driver licenses.

First offense, test over 0.08: not less than 30 days;

First offense, test refused: not less than 90 days;

Second offense is less than five years: Test over 0.08: Not less than 180 days and until the course has certified that treatment or rehabilitation has been successfully completed where prescribed;

Second offense if less than five years, test refused: not less than one year and until the court has certified that treatment or rehabilitation has been successfully completed where prescribed.

Revocation periods are doubled for those drivers whose alcohol concentration level is .20 or more. More than two offenses call for longer periods of revocations; and under certain circumstances the registration plates and registration certificates of all motor vehicles registered in the name of any person whose license is revoked may be impounded. Vehicles used in DWI offenses may be forfeited if the driver has three or four prior offenses or upon a second offense where the driver's alcohol concentration level is .20 or more, or where a child under the age of 16 is present in the vehicle. Prior juvenile adjudications as DWI violations count as prior "convictions" for purposes of revocations.

**Implied Consent** The implied consent statute provides that by driving a motor vehicle in this state, a person implicitly consents to submit to testing for intoxication. If testing is refused, you may be subject to criminal penalties, and your right to drive will be revoked for a minimum period of one year. If a test is taken and the results indicate an alcohol concentration of 0.08 or more, your right to drive will be revoked for a minimum period of 90 days. Revocation periods are doubled for those drivers whose alcohol concentration is .20 or more. However, whether you take or refuse the test, you may still be subject to criminal prosecution for an alcohol or controlled substance-related driving offense that has its own license revocation provision.