

DWI College for Trial Judges, July 13, 2011

ALCOHOLIC BEVERAGE CODE OFFENSES	AUTOMATIC LICENSE SUSPENSION PERIOD			EFFECTIVE DATE OF SUSPENSION
	1st Offense	2nd Offense °	3rd Offense	
ADULT: FURNISHING ALCOHOL, OR PURCHASING ALCOHOL FOR A MINOR 106.06 AB	180 days Judge Orders DPS to Suspend	1 yr Judge Orders DPS to Suspend	n/a	Begins after date of final conviction. §521.351(c)
MINOR: ATTEMPT TO PURCHASE ALCOHOL BY MINOR 106.025 CONSUMPTION OF ALCOHOL BY MINOR 106.04 Misrepresentation of Age by Minor 106.07 Possession of Alcohol by Minor 106.05 AB Purchase of Alcohol by a Minor 106.02 AB	30 days Judge Orders DPS to Suspend as above as above as above	60 days Judge Orders DPS to Suspend as above as above as above	90 days Judge Orders DPS to Suspend as above as above as above	Upon Receipt By DPS of Court Order 106.071(d)(2). DPS Notifies Minor 521.345(b)
Failure to Complete Alcohol Awareness Course 115(d)(1) AB, 54.042(c) FC	1 dy – 6 months Judge Orders DPS to Suspend			Upon Receipt By DPS of Court Order 106.115(d)(1) AB DPS To Notice Defendant 521.345(b)

Δ <21 means a person younger than 21 years of age on date of offense

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INTOXICATION OFFENSES	GRADE	AUTOMATIC SUSPENSION (J) Suspension Period Set By Judge (DPS) Judge Orders DPS To Suspend Per Statute			COMMUNITY SUPERVISION	
		>5 yrs after date last offense committed	Committed w/in 5 yrs of date on which last offense was committed	EFFECTIVE DATE of SUSPENSION	EDUCATION PGM	IGNITION INTERLOCK
DWI 49.04 DWI w/Child Passenger 49.045	1st (true 1st)	90 dys – 1 yr 521.344(a)(2)(A)	n/a	Date of Conviction—30 th Day After 521.344(a)(1)	Stays suspension if Δ timely completes pgm or if judge waives or extends completion date Art. 42.12 §13(h),(i)	Discretionary unless: Δ BAC .15 or more 42.12§13(i) Δ<21 on date of offense 42.12§13(n)(2)
BWI 1st 49.05 FWI 1st 49.06	1st (true 1st)	90 days – 1 yr (J) 521.344(a)(2)(A)	n/a	✓	✓	✓
DWI 49.04	2nd or more punished as 1st	90 dys – yr	1 yr – 2 yrs 42.12§13(k)	✓	Judge may waive but must suspend for 90 – 365 days 42.12§13(k)	Discretionary unless: Δ BAC .15 or more 42.12§13(i) Δ has 1 or more prior convictions Δ<21 on date of offense 42.12§13(n)(2)
DWI 49.09(a) 49.09(b)	2nd or more punished as 2nd Subsequent (Felony)	180 days–2 yrs (J) 521.344(a)(2)(B)	1 yr – 2 yrs 42.12§13(k)	✓	Judge may waive but must suspend for 180 days–2 yrs 42.12§13(k)	*
DWI (r-Under 21) 49.04, 49.09(a) OR (b)	Any	1 yr 521.342(b) 90 dys if probated	1 yr 521.342(b) 90 dys if probated	✓	Required 521.342(b)	Mandatory 42.12§13(n)(2)

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INTOXICATION OFFENSES	GRADE	AUTOMATIC SUSPENSION (J) Suspension Period Set By Judge (JD) Judge Orders DPS To Suspend Per Statute			COMMUNITY SUPERVISION	
		>5 yrs after date last offense committed	Committed w/in 5 yrs of date on which last offense was committed	EFFECTIVE DATE of SUSPENSION	ALCOHOL EDUCATION PGM	IGNITION INTERLOCK
INTOXICATION ASSAULT w/ Motor Vehicle (ADULT) 49.07 PC	1st	90 days – 1 yr (J) 521.344(a)(2)(A)	1 year 521.344(a)(2)(A)	Date of Conviction—30 th Day After 521.344(a)(1)	Stays suspension if Δ timely completes pgm or if judge waives or extends completion date Art. 42.12 §13(h),(i)	Mandatory for at least 50% of probation term 42.12§13(i)
INTOXICATION ASSAULT w/ Motor Vehicle (Minor) 49.07 PC		1 yr 521.342(b) 90 days if probated	n/a	✓	Does not stay suspension unless judge requires Δ to install interlock 521.342(b)	Mandatory to have shorter suspension and get credit for alc educ pgm. 42.12§13(n)(2) 521.342(b)
INTOXICATION MANSLAUGHTER (Adult) 49.08 PC	1st or 2nd	180 days – 2 yrs (J) 521.344(b)(2)	*Committed w/in 10 yrs of date of last offense 1 yr – 2 yrs (J) 521.344(b2)	✓	Stays suspension if Δ timely completes pgm or if judge waives or extends completion date Art. 42.12 §13(k)	Mandatory for at least 50% of probation term 42.12§13(i)
INTOXICATION MANSLAUGHTER Minor 49.08 PC		1 yr 521.342(b) 90 dys if probated	n/a	✓	Does not stay suspension unless judge requires Δ to install interlock 521.342(b)	Mandatory for term of probation 42.12§13(n)(2)

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HEALTH & SAFETY CODE

PENAL CODE

TRANSPORTATION CODE

GENERAL OFFENSES	GRADE	LICENSE ACTION (J) =By Judge (DPS) =Automatically By DPS on Notification by Court	EFFECTIVE DATE OF SUSPENSION
Controlled Substance Act Crimes Including Marihuana, Any Drug Offense Any Felony Under Ch 481 H&S that is not a drug offense. Adult 521.372	any	180 days after date of final conviction (A) 521.372(c) Suspension continues indefinitely until Δ completes Drug Course. (DPS) 521.374(b)	On Final Conviction 521.372(c)
Controlled Substances Crimes Minor [< 21on date of offense] 521.342(a)(3) – (5)	any	180 days after date of final conviction (A) 521.372(c) Suspension continues indefinitely until Δ completes Drug Course. (DPS) 521.374(b)	On Conviction 521.342(a)
Dangerous Drug & Volatile Chemical offense under either Chapter 483, or 485 H&S involving possession, delivery, transportation, manufacture or use Misdemeanor under 481 not listed in Subchapter P 521.342(a)(4), (5)		1 year (DPS) 521.343	On Conviction 521.342(a)
Criminally Negligent Homicide With Motor Vehicle 19.05 PC		1 year (DPS) 521.341(1), >1 – 18 months 521.343 TC	On Final Conviction 521.343 TC
Driver's License Fraud Generally: Adult 521.341(7),(8) 521.451, 453 TC		90 days–1 year (J) Or, if not set by Judge, 1 year (DPS) 521.346	On Final Conviction
Driver's License Fraud by Under 21 Year Old Representing Self to be 21 or More 521.453(a) TC		90 days–1 year (J) Or, if not set by Judge, 1 year (DPS) 521.346	On Final Conviction

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GENERAL OFFENSES	GRADE	LICENSE ACTION (J) =By Judge (DPS) =Automatically By DPS on Notification by Court	EFFECTIVE DATE OF SUSPENSION
Driving While License Invalid or Suspended for Conduct Listed in 521.292(a)(1)	1st	90 days (DPS) 521.292, 293	40 th day after DPS considers Δ received notice under 521.297(a)
Driving While License Invalid or Suspended for Conduct Listed in 521.292(a)(1)	2nd	Lesser of original period of suspension or 1 year, to be served consecutively with original. (DPS) 521.292, 293	40 th day after DPS considers Δ received notice under 521.297(a)
Evading Arrest With Motor Vehicle 38.04	1st	1 year (DPS) 521.341(2), 521.343(a)	On Final Conviction 521.342(2)
	>1	18 months (DPS)	On Final Conviction
Fictitious License Plates, Safety, or Inspection Sticker 502.409(a)(4) or 548.603(a)(1)		180 days(DPS) 521.343(b)	11 th day after DPS renders order. 521.311
Graffiti 28.08 PC		1 year {J orders DPS to suspend} 521.320	On Final Conviction including deferred adjudication and c/s 521.320(c), (f)
Habitual Violator		90 days – 1 year (DPS) 521.292, 293	40 th day after DPS considers Δ received notice under 521.297(a)
Human Trafficking – Juvenile		1 year 54.042(c) FC , 521.345 TC	
Manslaughter by Recklessly Using Motor Vehicle 19.04 PC	1st	1 year DPS 521.341(8), 521.343(a)	On Final Conviction
	2nd	18 months (DPS)	On Final Conviction

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GENERAL OFFENSES	GRADE	LICENSE ACTION (J) =By Judge (DPS) =Automatically By DPS on Notification by Court	EFFECTIVE DATE OF SUSPENSION
Motor Vehicle Felonies		1 year (521.341(5))	On Final Conviction
Out-of-State Convictions Under Driver's License Compact 521.306		Same as Texas Offense	11 th day after DPS renders order. 521.311
Racing 545.420(a) TC		1 year (DPS) 521.350(b) If Δ under 18, Restricted ODL to and from school, 521.350(c)	On Final Conviction
Registered Sex Offender Failing to Apply for Driver's License 521.348(a)		REVOKED DPS 521.348(a)(2)	Day after annual renewal date. 521.348(a)(2)
Tampering with Government Record (License Plate or Registration or Safety Sticker Under Chaps 502 or 548) 37.10 Pc		1 year Revocation (J) No Suspension if Judge Grants Def'd Adj.	On Final Conviction. Judge may require Δ to surrender license(s). 521.347(a)
Theft of Motor Fuel..... 31.03 PC	1st	180 days (DPS) 521.349(c)	On Final Conviction 521.349(a)
	2nd	1 year suspension and 1 year denial from date Def seeks reinstatement (DPS)	On Final Conviction

INTERLOCK	5 YR MANDATORY
49.09(h) PC	RULE
n/a on true 1st offense	
<p>INTERLOCK 5 YR RULE (49.09(h) Penal Code</p> <ul style="list-style-type: none"> • Applies only to person convicted of a 2nd or subsequent DWI. • Court shall enter order: <ul style="list-style-type: none"> • requiring Defendant to have IID installed on each motor vehicle owned, or operated by Defendant; and • for one year beginning on the date the Defendant's suspension under §521.344 ends 	

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40th day after receipt of notice if no request for hearing. 524.021

BREATH / BLOOD TEST FAILURE- ADULT	LICENSE ACTION BY DPS 521.311	INELIGIBLE FOR ODL
1st Contact—	90 days suspension 524.022(a)(1) Court shall credit to automatic suspension 524.023(b) 521.344(c)	Immediately subject to compliance with counseling and rehab 521.251(a), 521.251(a)
2nd contact but no prior conviction w/in 5 years of date of prior contact	1 yr suspension 524.022(a)(2)	91st day after suspension 521.251(b)
2nd contact or more if w/in more than 5 yrs but less than 10 yrs from date of prior contact	1 yr suspension 524.022(a)(2) Court shall NOT credit to automatic suspension 524.023(b)	91st day after suspension 521.251(b)
2nd contact or more after conviction under 49.04 w/in 5 years of date of prior conviction	1 yr suspension 524.022(a)(2)	181st day after suspension 521.251(c)
2nd or additional contact w/in 5 years of date of prior conviction under 49.09(a) or (b)	1 yr suspension 524.022(a)(2)	1st anniversary of the suspension 521.251(d)

BREATH/BLOOD DETECTABLE AMOUNT-MINOR	LICENSE ACTION BY DPS 521.311	INELIGIBLE FOR ODL
1ST	60 days 524.022(b)(1), Court shall credit to automatic suspension 524.023(b) 521.344(c)	1st 30 days of suspension 524.022(d)(1)
2nd¹	120 days consecutive w/automatic 524.022(b)(2), Court shall NOT credit to automatic suspension 524.023(b), 521.344(c)(1)	1st 90 days of suspension 524.022(d)(2)
3rd²	180 days consecutive w/automatic 524.022(b)(3), Court shall NOT credit to automatic suspension 524.023(b) 521.344(c)(1)	Entire period of suspension 524.022(d)(3)

¹ A previous conviction includes an adjudication under Title 3 Family Code that minor engaged in conduct under Section 106.041, Alcoholic Beverage Code, or Section 49.04, 49.045, or 49.06, Penal Code, or an offense under Section 49.07 or 49.08, Penal Code, involving the operation of a motor vehicle or a watercraft

² *Id.*

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REFUSAL ADULT AND MINOR	LICENSE ACTION BY DPS 521.311	INELIGIBLE FOR ODL
1st Contact ADULT / MINOR	180 days suspension 724.035(a)(1) Court shall credit toward automatic suspension 521.344(c)	Immediately subject to compliance w/IID and Counseling 521.251(a), 521.251(a)
2nd contact but no prior conviction w/in 5 years of date of prior contact	2 yr suspension 724.035(b) Court shall NOT credit toward automatic suspension 521.344(c)(1)	91st day after suspension 521.251(b)
2nd contact or more after conviction under 49.04 w/in 5 years of date of prior conviction	2 yr suspension 724.035(b) Court shall NOT credit toward automatic suspension 521.344(c)(1)	181st day after suspension 521.251(c)
2nd or additional contact w/in 5 years of date of prior conviction under 49.09(a) or (b)	2 yr suspension 724.035(b) Court shall NOT credit toward automatic suspension 521.344(c)(1)	1st anniversary of the suspension 521.251(d)
2nd contact or more if w/in more than 5 yrs but less than 10 yrs from date of prior contact	2 yr suspension 724.035(b) Court shall NOT credit toward automatic suspension 521.344(c)(1)	91st day after suspension 521.251(b)