

STATE:
General Reference:

COLORADO
Colorado Revised Statutes

Basis for a DWI Charge:

Standard DWI Offense:	I. Under the influence of alcohol §42-4-1301(1)(a) II. Impaired by the consumption of alcohol §42-4-1301(1)(b)
Illegal Per Se Law (BAC/BrAC):	≥.08 ¹⁵⁴ and ¹⁵⁵ §42-4-1301(2)(a) <u>Persons Under 21 Years Old-BrAC only ≥.02 but ≤.05</u> (Class A Traffic Infraction) §42-4-1301(2)(a.5) >.05 but <.08-Driving while impaired. ≥.08-Driving Under the influence §42-4-1302(5)(b) and (c)
Presumption (BAC/BrAC):	(1) Any Drug or (2) a Combination of Alcohol and Drugs ¹⁵⁶ (applies to both driving under the influence and driving while impaired) §§42-4-1301(1)(a) and 42-4-1301(1)(b)
Types of Drugs/Drugs and Alcohol:	
Other:	It is an offense for habitual drug users to operate a motor vehicle. The sanctions for this offense are the same as for driving while under the influence. §42-4-1301(1)(c) and (7)

Chemical Breath Tests for Alcohol Concentration:

Preliminary Breath Test Law:	Yes §42-4-1301(6)
Implied Consent Law: ¹⁵⁷	§42-4-1301.1.
Arrest Required (Yes/No):	No , But probable cause is required; §42-4-1301.1(2)(a)(I)
Implied Consent Law Applies to Drugs (Yes/No):	Yes §42-4-1301.1(2)(a)(I)
Refusal to Submit to Chemical Test Admitted into Evidence:	Yes (Criminal Cases) §42-4-1301(6)(d)
Other Information:	A person's blood may be taken by force if (1) there is probable cause that the person committed an alcohol-related driving offense, (2) there is a clear indication that the blood sample will provide evidence of the level of intoxication; (3) exigent circumstances exist; and (4) the test must be reasonable and conducted in a reasonable manner. §42-4-1301.1 and <i>People v. Shepherd</i> , 906 P. 2d 607 (Colo. 1995)

¹⁵⁴ This State's illegal per se law also makes it an offense to operate a motor vehicle with a breath alcohol concentration of .08 or more.

¹⁵⁵ Standards: Grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath. §§42-2-126(2)(a)(I), 42-4-1300.3(1)(a) and (b).

¹⁵⁶ A "drug" is defined as (1) a substance intended to cure or prevent disease listed in the U.S. Pharmacopoeia, (2) a controlled substance or (3) toxic vapor or vapors including, but not limited to, glue sniffing and aerosol inhalation. §§12-22-303(7) and (13) and 42-4-1301(1)(d)

¹⁵⁷ This State has an "express consent" law instead of an "implied consent" one. I.e., any person who operates a motor vehicle in this State is "deemed to have expressed such person's consent" to submit to chemical test of either his/her blood, breath, urine, or saliva.

Chemical Tests of Other Substances
for Alcohol Concentration Which Are
Authorized Under the Implied Consent Law:

Blood: **Yes** (Alcohol and Drugs) §42-4-1301.1(2)(b)(I)
 Urine: **Yes** (For Drugs only) §42-4-1301.1(2)(b)(I)
 Other: **Saliva** (For Drugs only) §42-4-1301.1(2)(b)(I)

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): **No** Deferred prosecution or deferred sentence of drunk-driving offenses is available. §§18-1.3-101 and 18-1.3-102
 Anti-Plea-Bargaining Statute (Yes/No): **Yes**¹⁵⁸ §42-4-1301(4)
 Pre-Sentencing Investigation Law (PSI) (Yes/No): **Yes** Alcohol and Drug Evaluations required. §42-4-1301.3(1)

Sanctions for Refusal to Submit to a
Chemical Test:

Refusal to Take a Preliminary Breath Test:
 Criminal Sanctions (Fine/Jail): **No**
 Administrative Licensing Action (Susp/Rev): **No**
 Other: **None**
 Refusal to Take Implied Consent Chemical Test:
 Criminal Sanction (Fine/Jail): **None**
 Administrative Licensing Action (Susp/Rev): **First refusal – Revocation 1 year**¹⁵⁹; **second refusal – Revocation 2 years**; **third or subsequent refusal – Revocation 3 years** §§42-2-126(2)(a)(II), 42-2-126(6)(b)(III), (VI) and (VII) and 42-4-1301.2
 Note: For a DWI offense arising out of the same incident, the license revocation or suspension periods for refusal and conviction are to run consecutively. §§42-2-126(6)(c)(II) and(III) and 42-4-1301.2.
 Other: **None**

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions: See Double Jeopardy below.
 Imprisonment:
 Term (Day, Months, Years Etc.): Driving under the influence/illegal per se, first offense (misdemeanor) – 5 days to 1 year; first offense¹⁶⁰ **70**

¹⁵⁸ The court cannot accept a guilty plea to a non-alcohol or non-drug-related traffic offense in lieu of a drunk-driving offense unless the prosecutor makes a good faith representation that they could not establish a prima facie case on the original charge. §42-4-1301(4).

¹⁵⁹ These revocation periods are mandatory unless a person participates in the "ignition interlock" program. Such a participant is eligible for probationary driving privileges after the following mandatory revocation periods: first refusal – 3 months; second refusal – 6 months; and, third or subsequent refusal – 9 months. §42-2-126.1. **Double Jeopardy:** A person who has been subjected to licensing action under the admin per se law may also be subsequently prosecuted for a drunk-driving offense without violating double jeopardy prohibitions. *Deutschendorf v. People*, 920 P. 2d 53 (Colo. 1996)

¹⁶⁰ But where there has been a conviction for a driving while impaired offense.

Mandatory Minimum Term:	<p>days to 1 year; subsequent offense or BAC or BrAC ≥ 0.20-90 days to 1 year; Driving while impaired (misdemeanor) – first offense – 2 days to 180 days; first offense¹⁶¹ – 60 days to 1 year; subsequent offense -45 days to 1 year §42-4-1301(7) Injury Related DWI Offense (Vehicle Assault) (Class 4 felony) – 2 to 6 years §§18-1.3-401 and 18-3-205 Driving Under the Influence/Illegal per se – first offense 5 days; first offense¹⁶²-70 days (7 days); subsequent offense or BAC or BrAC ≥ 0.20-90 days (10 days); Driving While Impaired – first offense – 2 days; first offense¹⁶³ – 60 days (6 days); subsequent offense – 45 days (5 days) §42-4-1301(7); Injury Related DWI Offense (Vehicle Assault) (Class 4 felony) – 3 years</p>
Fine:	
Amount (\$ Range):	<p>Driving under the influence/illegal per se, first offense – \$300 to \$1,000; first offense – \$450 to \$1,500; subsequent offense or BAC/BrAC≥ 0.20 – \$500 to \$1,500; Driving while impaired, first offense – \$100 to \$500; first offense – \$450 to \$1,200; subsequent offense – \$300 to \$1,000 §42-4-1301(7) Injury Related DWI Offense – Vehicle Assault (Class 4 felony) \$2,000 to \$500,000.</p>
Mandatory Minimum Fine (\$):	<p>In addition, \$50 - \$500 penalty surcharge imposed on all DUIs.</p>
Other Penalties:	<p>$\geq .17$ BAC classified as “persistent drunk driver” – Mandatory ignition interlock for at least one year.</p>
Community Service:	<p>Driving under the influence/illegal per se, first offense – 112 hours (56 hours mandatory); subsequent offense or BAC/BrAC≥ 0.20-60 to 120 hours (60 hours mandatory), Driving While Impaired, first offense – 24 to 48 hours (24 hours mandatory); first offense – 52 to 104 hours (52 hours mandatory); subsequent offense – 48 to 96 hours (48 hours mandatory) §42-4-1301(7)</p> <p>Persons assigned to community service must pay a fee of no more than \$120. §42-4-1301(7)(h) and 42-4-1301.4.</p>
Restitution (e.g., Victim's Fund):	<p>Yes I. A victims' compensation fund. §24-4.1-119(1)(c).</p> <p>II. A defendant may be ordered to pay restitution as part of the sentence. §18-1.3-601. As a condition of probation, a drunk-driving defendant shall be required to make restitution. §42-4-1301(7)(e).</p>

¹⁶¹ But where there has been a conviction for a driving while under the influence offense/illegal per se.

¹⁶² But where there has been a conviction for a driving while impaired offense.

¹⁶³ But where there has been a conviction for a driving while under the influence of illegal per se offense.

Other:	<p>Mandatory Parole: Persons who have been convicted of Vehicle Assault must be placed on parole for 3 years. §18-1.3-401</p> <p>Child Abuse (Endangerment): Knowingly or recklessly committing an act that either kills or injures a child (<16 years old) is child abuse. If death results, it is a Class 2 felony- 8-24 years in prison and/or a fine of \$5,000 – \$1,000,000. If injury results, it is a Class 3 felony- 4-12 years in prison and/or a fine of \$3,000 – \$750,000. Mandatory parole- 5 years for both felonies. §§ 18-1.3-401, 18-6-401(1), (2), (7)(a)(I) and (III); <i>People v. Deskins</i>, 927 P. 2d 368 (Colo 1996).</p>
Administrative Licensing Actions: Pre-DWI Conviction Licensing Action: Administrative Per Se Law:	<p>Yes ≥.08 (BAC/BrAC.) <u>First Violation</u> – Revocation 3 months¹⁶⁴; <u>Second and Subsequent Violations</u> – Revocation 1 year §§42-2-126(2)(a)(I) and 42-2-126(6)(b)(I) and (III) If the person is also convicted of a DWI offense, the licensing actions for the admin. per se violation and for the DWI conviction shall run <u>concurrently</u> and the total revocation period shall not exceed the longer of the two periods. §§42-2-125(5) and 42-2-126(6)(c)(I) and (III).</p>
Other:	<p>None</p>
Post DWI Conviction Licensing Action: Type of Licensing Action (Susp/Rev):	<p>Driving while under the influence and illegal per se, <u>first offense</u> – Suspension/Revocation; Driving while impaired – Suspension/Revocation^{165and166} §§42-2-125(1)(b), (g) and (i) and 42-2-127(9)(a) Injury Related DWI Offense (Vehicle Assault) – Revocation §42-2-125(1)(a)</p>
Term of License Withdrawal (Days, Months, Years, etc.):	<p>Driving while under the influence and illegal per se, <u>First offense</u> – Suspension Not less than 1 year; impaired, <u>first offense</u> – 1 year^{167,168and169} §§42-2-125(1)(b), (g) and (i), 42-2-127(9)(a) and</p>

¹⁶⁴ The revocation periods for admin. per se violations are mandatory unless a person participates in the “ignition interlock” program (under 42-2-126.1). Such a participant is eligible for probationary driving privileges after the following mandatory revocation periods: first violation – **1 month**; second or subsequent violation – **3 months**. See Ignition Interlock program.

¹⁶⁵ For driving while under the influence, 12 points and, for driving while impaired conviction, eight points are placed on driver's record; generally the accumulation of either 12 points in 12 months or 18 points in 24 months results in license suspension for not more than 1 year (or for not less than 1 year for first driving while under the influence offenses) but a probationary-restricted license may be issued. §§42-2-127(1)(a), (5), (12) and (14) and 42-2-132(1)

¹⁶⁶ A conviction for either an impaired, under the influence, or illegal per se offense where there has been a previous alcohol driving offense conviction of any type within a 5-year period – Revocation §§42-2-125(1)(g) and 42-2-132(2) A conviction for either an impaired, under the influence of illegal per se influence or illegal per se offense where there have been two previous alcohol driving offense convictions of any type – Revocation §42-2-125(1)(i)

¹⁶⁷ If the first offender is a minor, a person under 21 years of age (§2-4-402(b)), the license must be revoked for a 1-year

Mandatory Minimum Term of Withdrawal:	42-2-132 <u>Injury-Related DWI Offense</u> (Vehicle Assault) – 1 year §§42-2-125(1)(a) and 42-2-132(2)(a)
Other:	
Rehabilitation:	
Alcohol Education:	Yes §42-4-1301.3 See also §§43-2-126 (7)(c)(II) and 42-2-132(2)(a)(II) (B)
Alcohol Treatment:	Yes §42-4-1301.3 See also §§43-2-126 (7)(c)(II) and 42-2-132(2)(a)(II) (B)

DWI Offenses and Commercial Motor Vehicles (CMV)/Commercial Driver's Licenses (CDL): A person's privilege (i.e., their CDL) to operate a CMV is "revoked" for 1 mandatory year (3 years if transporting hazardous materials) if, while driving a CMV, that person (1) has a BAC/BrAC ≥.04, (2) is under the influence of a controlled substance or (3) refuses to submit to a chemical test for alcohol concentration or drug content. For either (1) a subsequent violation or (2) a combination of two or more violations of either driving while under the influence of alcohol or of any of the above listed items, the CDL is "cancelled" for life (10 years mand). In addition, a person who has any alcohol in the system is placed "out-of-service" for 24 hours. §§42-2-125(1)(b) and (2), 42-2-126(2)(a)(II) and (III), (6)(b)(III), (IV) and (V), and (7) (a)(I), 42-2-127(1)(a) and (5)(b), 42-2-402(4) and (8), 42-2-405, and 42-4-1301.1(4).

period. §§42-2-125(g) and 42-2-132(2)

¹⁶⁸ A conviction for either an impaired, under the influence, or illegal per se offense where there has been a previous alcohol driving offense conviction of any type within a 5-year period – Revocation for 1 year. §§42-2-125(1)(g) and 42-2-132(2) A conviction for either an impaired, under the influence of illegal per se influence or illegal per se offense where there have been two previous alcohol driving offense convictions of any type – Revocation for an indefinite period. §42-2-125(1)(i)

¹⁶⁹ A person convicted of operating a vehicle while under the influence of a controlled substance must have his/her license revoked for a mandatory period of one year for a first offense. §§42-2-125(1)(b) and (2) and 42-2-132(2)

¹⁷⁰ A probationary-restricted license may be issued for reasons of employment/alcohol education, et al. This license is renewable for additional 1-year periods, except if the person is designated a “persistent drunk driver”(i.e., has a BAC ≥.17) any probationary license must require ignition interlock for at least one year. §42-2-127(12) and (14)

¹⁷¹ If the first offender is a minor, a person under 21 years old, his/her license must be revoked for a 1-year period. §§42-2-125(1)(g) and 42-2-132(2)

¹⁷² I. A conviction for either an impaired, under the influence, or illegal per se offense where there has been a previous alcohol driving offense conviction of any type within a 5-year period – Revocation 1 mandatory year (notwithstanding participation in an ignition interlock program). §§42-2-125(1)(g), 42-2-126.1(1) and 42-2-132(2) II. A conviction for either an impaired, under the influence of illegal per se influence or illegal per se offense where there have been two previous alcohol driving offense convictions of any type – Revocation 2 years (1 year mandatory notwithstanding participation in an ignition interlock program). §41-2-125(1)(i) and (2.3) See Ignition Interlock Program below.

Ignition Interlock Program with Restricted License (§42-2-132.5): I. For either (1) an impaired, under the influence or illegal per se offense or (2) a habitual offender offense related to one of these alcohol offenses where there has been a previous alcohol driving offense conviction of any type within a 5-year period, an offender must install ignition interlock devices on the vehicles that person drives and is required to hold a restricted license for at least 1 year prior to full license reinstatement. See also §42-2-125 (2.3) and (2.4). II. Early Reinstatement (§42-2-132.5(1.5)): A person who has had his/her driving privileges revoked for more than 1 year either for (1) driving while either impaired, under the influence or illegal per se or (2) an admin per se violation, is eligible for early license reinstatement with driving restrictions with the use of an ignition interlock device. The restrictions remain in effect for “the longer of one year or the total time period remaining on the license restraint prior to early reinstatement.”

(continued)

Vehicle Impoundment/Confiscation:

Authorized by Specific

Statutory Authority:

Terms Upon Which Vehicle

Will Be Released:

Other:

None

Miscellaneous Sanctions

Not Included Elsewhere:

- I. A DWI offender may be sentenced to attend a "victim impact panel" and assessed an attendance fee of not more than \$25. §42-4-1301(7)(f)
- II. A DWI offender is required to pay \$75 (deposited into the Law Enforcement Assistance Fund) and \$15 (deposited into the county treasury). §43-4-402(1)
- III. A DWI offender is assessed the "cost" for alcohol/drug evaluation and supervision services and may be assessed other costs. §42-4-1301(7)(g)
- IV. For misdemeanor offenses, persons are assessed a surcharge of either 37 percent of the fine imposed or \$60 (Class 1) or \$25 (Class 2) whichever is the greater amount. Felony offenders are assessed a surcharge of either 37 percent of the fine imposed or \$125 whichever is the greater amount. §24-4.2-104(1)(a)(I)
- V. **Traffic School:** A person who violates the state's traffic laws may be ordered to attend a course of instruction on traffic laws, hazardous driving situations and accident prevention. §42-4-1717.
- VI. **Sanctions for Driving with BAC/BrAC ≥0.17:** If a driving under is influence charge is reduced to a driving while impaired but the Defendant's BAC/BrAC was ≥0.17, the sanctions imposed must be for the greater offense. §42-4-1301(7)(a)(II) and (a) (III) (B).
- VII. **Persistent Drunk Driver Surcharge:** All drunk-driving offenders must pay a surcharge or **not less than \$50 nor more than \$500** to fund the Persistent Drunk Driver Cash Fund. §42-4-1301(7)(d)(III).
- VIII. DWI offenders must pay a fee of \$25 which is deposited into the crime victims' compensation fund. §42-4.1-119(c)
- IX. DWI offenders may be assessed the cost of collection and analysis of the chemical test and any other cost incurred pursuant to prosecution. §16-11-501
- X. DWI offenders may be required to perform useful public service; if so, a fine of \$ 120 also imposed.

Other Criminal Actions Related to DWI:

Homicide by Vehicle:

State Has Such a Law:

Reckless Driving Vehicle Homicide **Class 4 felony**
§18-3-106(1)(a) and (c)

DWI Vehicle Homicide¹⁷³ **Class 3 felony**
 §18-3-106(1)(b) and (c)

Sanctions:	
Criminal Sanction:	
Imprisonment (Term):	<u>Class 4 felony 2 to 6 years</u> (4-12 years if the victim was a pregnant woman) §18-1.3-401 <u>Class 3 felony 4 to 12 years</u> (8-24 years if the victim was a pregnant woman) §18-1.3-401
Mandatory Minimum Term:	None. See Footnote No. ¹⁷⁴
Fine (\$ Range):	<u>Class 4 felony \$2,000 to \$500,000</u> §18-1.3-401 <u>Class 3 felony \$3,000 to \$750,000</u> §18-1.3-401
Mandatory Minimum Fine:	None
Administrative Licensing Action:	
Licensing Authorized and Type of Action:	Revocation §§42-2-125(a) and 42-2-128
Length of Term of Licensing Withdrawal:	1 year §42-2-132(2)(a)
Mandatory Action--Minimum Length of License Withdrawal:	1 year §42-2-132(2)(a)
Other:	<u>Class 4 felony-</u> Mandatory probation for 3 years §18-1.3-401 <u>Class 3 felony-</u> Mandatory probation for 5 years §18-1.3-401

Persons Under 21 Years Old: I. Infraction. A person < 21 who operates a motor vehicle with a BAC/BrAC ≥.02 but ≤.05 commits a Class A Traffic Infraction – \$50 fine. §§42-4-1302(2)(a.5) and 42-4-1701(4)(a)(I)(N). A person convicted of this offense is subject to license revocation: first offense – 3 months (30 days mand with restricted driving privileges for remainder of period); second offense – 6 months (mand); third or subsequent offense – 1 year (mand). §42-2-125(1)(g.5), (2.5) and (2.7). II. Administrative Action. A person <21 who operates a motor vehicle with either a BAC/BrAC >.05 but <.10 or a BAC (via breath analysis only) ≥.02 but ≤.05 is subject to the same license revocation periods. III. One convicted of driving with a BAC/BrAC of ≥0.2 but ≤.05 has 5 points assessed against his/her record. §42-2-127(5)(b)(IV)

Driving While License Suspended or Revoked
Where the Basis Was a DWI Offense:¹⁷⁵

Sanction:	
Criminal:	
Imprisonment (Term):	Misdemeanor first offense – 30 days to 1 year; second and subsequent offenses – 90 days to 2 years §42-2-138(1)(d)(I)

¹⁷³ Homicide related to "driving under the influence" of alcohol or drugs. As used in this offense, "driving under the influence" means the operation of a vehicle by a person who has consumed alcohol or drugs to such a degree that they are "substantially incapable, either mentally or physically, or both mentally and physically, of exercising clear judgment, sufficient physical control, or due care in the safe operation of a vehicle." §18-1.3-501. There is a rebuttable presumption that a person was under the influence of alcohol if he/she has an alcohol concentration of .08 or more. §18-1.3-501

¹⁷⁴ A vehicle homicide offender who commits such offense while fleeing from another felony must be sentenced at the mid-point range of the above ranges but not more than twice the maximum sentence. §18-1.3-401

¹⁷⁵ The sanctions given for driving while license is suspended or revoked for a drunk-driving offense also apply to persons who operate a CMV during a CDL revocation or cancellation. §42-2-138(1)(d). See also sanctions provided for disqualification in §42-2138(1)(a).

Mandatory Minimum Term of Imprisonment:	<u>First offense – 30 days; second and subsequent offenses – 90 days</u> §42-2-138(1)(d)(I)
Fine (\$ Range):	<u>First offense – \$500 to \$1,000; second and subsequent offenses – \$500 to \$3,000</u> §42-2-138(1)(d)(I)
Mandatory Minimum Fine:	None
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	For a second or subsequent offense within 5 years, the driver is not "eligible" for driving privileges. §42-2-138(1)(e)
Length of Term of License Withdrawal Action:	<u>Second and subsequent offenses – 4 years</u> §42-2-138(1)(e)
Mandatory Term of License Withdrawal Action:	<u>Second and subsequent offenses – 4 years</u> §42-2-138(1)(e)
<u>Habitual Traffic Offender Law:</u>	
State Has Such a Law (Yes/No):	Yes §42-2-201
Grounds for Being Declared an Habitual Offender:	(1) 3 or more serious offenses in 7 years, (2) 10 or more convictions for offenses of 4 points or more within 5 years or (3) 18 or more convictions of 3 points or less within 5 years. §42-2-202
Term of License Rev While Under Habitual Offender Status:	Revocation – 5 years ¹⁷⁶ §42-2-205
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	Class 1 Misdemeanor ¹⁷⁷ §42-2-206(1)(a)(1). . Vehicle Forfeiture: A vehicle used in the commission of a “felony” is subject to <i>in rem</i> civil forfeiture. §§16-13-302 and 16-13-303(1)(i). Via this law, the State was able to obtain forfeiture a driver’s vehicle based upon the offense of driving after license revocation. Subsequently, the driver was subjected to criminal prosecution for such behavior. The court held that the subsequent prosecution did not constitute double jeopardy. <i>People v. Ferrel</i> , 929 P. 2d 65 (Colo. App. 1996).
Driving While on Habitual Offender Status:	
Imprisonment (Term):	6 to 18 months §18-1.3-501
Mandatory Minimum Term of Imprisonment:	30 days
Fine (\$ Range):	\$500 to \$5,000 §18-1.3-501

¹⁷⁶ See Ignition Interlock Program with Restricted License.

¹⁷⁷ Aggravated Driving: A person commits aggravated driving, a Class 6 felony, when operating a motor vehicle while the license is still revoked for being a habitual offender and committing either a drunk-driving offense, reckless driving, eluding a police officer, or a violation of the accident reporting requirements. §42-2-206(1)(b)(I) and (II). Sanctions: 1 year-18 months imprisonment (mandatory probation for 1 yr) and/or \$1,000 – \$100,000 in fines. §18-1.3-401

Mandatory Minimum Fine (\$): **\$3,000¹⁷⁸**
 Licensing Actions (Specify): **None**

Other State Laws Related To Alcohol Use:

Laws Requiring BAC Chemical Tests on Persons Killed in Traffic

Accidents:

State Has Such a Law (Yes/No): **Yes §§42-4-1301.1(8) and 42-4-1304**

BAC Chemical Test Is Given to the the Following Persons:

Driver: **Yes**
 Vehicle Passengers: **No**
 Pedestrian: **Yes (15 years of age or older)**

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: **21 §12-47-901**

Minimum Age (Years) Possession: **21 Applies to possession in public places and motor vehicles. There is an exemption for possession on private property with parental consent or for religious purposes. §§12-47-901 and 18-13-122.**

Minimum Age (Years) Consumption: **21 There is an exemption for consumption on private property with parental consent or for religious purposes. §18-13-122.**

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): **Yes §§12-47-801 Under this law, a licensee is liable for the injuries caused by a patron if the sale or service of alcoholic beverages was "willfully and knowingly" made to such patron who was under 21, was visibly intoxicated, or was a known habitual drunkard. See Footnotes ¹⁷⁹ and ¹⁸⁰.**

"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation):

Note: Dram shop case law (e.g., *Kerby v. Flamingo Club, Inc.*, 532 P.2d 975 (Colo. 1974)) has been abrogated by legislation. §12-47-801(1).

Dram Shop Actions-Social Hosts: **Yes (Limited).** §12-47-801(4). Liability is limited to the actions of those under the legal drinking age. Under

¹⁷⁸ A person must be sentenced to either a mandatory jail term or a mandatory fine but may be sentenced to both. However, the mandatory jail or fine sanction may be suspended if the offender completes 40 (mandatory) -300 hours of community service. §42-2-206(1)(a)(II).

¹⁷⁹ A separate dram shop law, §13-21-103, provides that persons injured in person, property, or means of support by an intoxicated person has an action against any person who, "by selling or giving away intoxicating liquors to any habitual drunkard, causes the intoxication" of that drunkard. Damages amounts are subject to the general limitations found in §13-21-102.5.

¹⁸⁰ Damages awards are limited to \$150,000, but are adjusted each year to account for inflation. §12-47-801 (3)(c), (4)(c) and (5)(a).

the dram shop law, the service of alcoholic beverages must be "willfully and knowingly" made to persons under 21 years old.

Other --applying to a person other than an alcoholic sales business:

Any person convicted of providing alcohol to an underage person or allowing an underage person to use an adult's identification to purchase alcohol shall have the driver's license suspended for six months.

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action:

Class 2 Misdemeanor §12-47-901(1)(a) and (5)(a)(1) and 12-47-903(2)

Term of Imprisonment:

3 to 12 months §18-1.3-501

Fine (\$ Range):

\$250 to \$1,000 §18-1.3-501

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages

Withdrawn (Yes/No):

Yes Suspension or Revocation §12-47-601(1).¹⁸¹

Length of Term of License Withdrawal:

Suspension – Not more than **6 months**;¹⁸²

Revocation-Period not specified in the statutes

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action:

Class 2 Misdemeanor §12-47-901(1)(a) and (5)(a)(1) and 12-47-903(2)

Term of Imprisonment:

3 to 12 months §18-1.3-501

Fine (\$ Range):

\$250 to \$1,000 §18-1.3-501

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages

Withdrawn (Yes/No):

Yes Suspension or Revocation §12-47-601(1).

Length of Term License Withdrawal:

Suspension – Not more than **6 months**.

Revocation-Period not specified in the statutes.

Anti-Happy Hour Laws/Regulations:

No

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic

¹⁸¹ Violation is punishable by a fine of up to \$100, 24 hours of community service and completion of an alcohol assessment, education program or treatment program. §18-13-133(2)(b).

¹⁸² Summary suspension is allowed for not more than 15 days. §12-47-601(2).

Beverages in the Passenger Compartment
of a Vehicle:

Open Container Law (Yes/No):

YES- illegal to have an open alcoholic beverage container or to drink an alcoholic beverage in the passenger area; exceptions provided for passengers provided transportation for compensation, house coaches or trailers, and the possession of an open alcoholic beverage container in the area behind the last upright seat of a motor vehicle that is not equipped with a trunk or in an area not normally occupied by the driver or a passenger in a motor vehicle not equipped with a trunk. §42-4-1305

Anti-Consumption Law (Yes/No):

Yes – Driver and passengers¹⁸³ §12-47-901(1)(h) The law states "it is unlawful for any person: to consume malt, wines, or spirituous liquor in a public place." Of course, licensed premises are exempt.

¹⁸³ There is an exception for passengers at least 21 years old who are riding in a luxury limousine or a chartered bus. In lieu of license suspension, the licensee may be allowed to pay an administrative fine. The fine shall be 20 percent of the estimated gross revenues of the sale of either alcoholic beverages or fermented malt beverages over the period of the proposed suspension. However, such a fine must be at least \$200 but cannot be more than \$5,000. §§12-47-601(3).