

2011 Laws Pertaining to Driving Under the Influence

HB 106: Creates a 24/7 Sobriety Project

- Effective October 1, 2011
- Amends 45-7-309, 46-18-201, and 61-5-208,
- Creates a 24/7 Sobriety Program for offenders convicted of a second or subsequent offense of 61-8-401 or 61-8-406.
- The program is not required, but counties can enforce it at their own discretion.
- Program participation may be a condition of bond or pretrial release, as well as a part of a sentence.
- Non-compliance with the program can be charged as contempt of court.

HB 12: Increase Penalties for 61-8-406 and 61-8-401

- Applies to all offenses committed on or after April 20, 2011.
- Amends 61-8-714 and 61-8-722
- Increases the potential jail time for a first offense BAC infraction (61-8-406) to 6 months (previously 10 days). For a second offense, the potential jail time is increased to 1 year (previously 30 days) and for a third offense, the time is also increased to 1 year (previously 6 months).
- Increases the potential jail time for a second offense DUI (61-8-406) to 1 year (previously 6 months)

HB 69: Revise Jail Penalties and Mandatory Minimums for DUI Court Participation

- Applies to all offenses committed on or after April 20, 2011.
- Amends 61-8-714 and 61-8-722
- Encourages DUI Court participation by allowing for the suspension of all jail time, except for the mandatory minimum, to be suspended with participation
- The mandatory minimum jail sentence for all crimes charged under 61-8-401 may not be suspended unless serving the minimum risks the physical or mental well-being of the offender. The mandatory minimum may also not be served on house arrest.
- For a second offense under 61-8-401, the potential jail time is increased to 1 year (this was also done under HB 12).

HB 102: Revise Probationary Driver's License for DUI Court Participation

- Applies to all offenses committed on or after April 8, 2011.
- Amends 61-2-302, 61-5-205, 61-5-208, and 61-8-734
- Participants in DUI Court may receive a probationary license at the court's discretion.

- A person with a second conviction of 61-8-401 or 61-8-406 may not receive a probationary license for the first 45 days of their suspension.
- A person with a third conviction of 61-8-401 or 61-8-406 may not receive a probationary license for the first 90 days of their suspension.
- Chemical dependency programs must be completed before the license is reinstated.

SB 15: Create Misdemeanor Crime of Aggravated DUI

- Applies to all offenses committed on or after April 28, 2011.
- Amends Title 61, Chapter 8,
- Applies if one of the following is true:
 - (1) The driver has a BAC of 0.16 or more,
 - (2) Is suspended or revoked for prior DUI/BAC,
 - (3) Is required to have an ignition device,
 - (4) Refuses testing and has previously refused testing in the past.
 - (5) Has a previous DUI-related conviction in the previous 3 years, or 2 in the previous 7 years.
- Penalty includes a maximum jail sentence of 1 year and a maximum fine of \$1,000.

SB 42: Authorize Warrants to Obtain Blood/Breath in DUI cases

- Applies to all offenses committed on or after April 28, 2011.
- Amends 46-5-224 and Title 61, Chapter 8
- If the arrested person has refused to provide a breath, blood, or urine sample under 61-8-409 or this section in a prior investigation in this state or under a substantially similar statute in another jurisdiction, the officer may apply for a search warrant to be issued to collect a person's blood for testing.
- If the arrested person has a previous conviction for a DUI-related offense, or a similar statute in another jurisdiction, the officer may apply for a search warrant to be issued to collect a person's blood for testing.
- Search warrant to be issued pursuant to 46-5-224.
- Proof of refusal is still admissible in court, even if a sample is obtained.