

## **Drug and Alcohol Prevention Program Disclosures**

Federal regulations require institutions participating in Federal Student Aid programs to provide its students, staff and faculty information pertaining to the prevention of drug and alcohol abuse. Students and employees are expected to dress and act in a businesslike manner while attending classes and while 'on-the-job'. At the discretion of the school administration, a student or employee may be dismissed from school or employment for serious incident or repeated incident of an intoxicated or drugged state of behavior, possession of drugs or alcohol upon school premises, possession of weapons upon school premises, behavior creating a safety hazard to other persons at school, disobedient or disrespectful behavior to other students, an administrator, or faculty member, failure to conform to building or administrative policies; including failure to uphold financial obligations, or any other stated or determined infractions of conduct. Any student or employee convicted of a drug or alcohol crime may be dismissed from school or employment immediately. Possession, distribution, or use of alcohol or illicit substances on school premises may bring immediate expulsion or employment termination. Furthermore, the institution may report the incident to local law enforcement.

### **Standards of Conduct**

1. Consumption of alcohol is prohibited on all campuses and externship/clinical sites.
2. Drug usage, other than over-the-counter drugs and prescription medications used in accordance with a doctor's prescription, is prohibited while serving as an employee or student representative of the Institution, whether on- or off-campus.
3. The unlawful use, possession, manufacture, or distribution of controlled substances on any campus or externship/clinical site is strictly prohibited.
4. The operation of any vehicle or machinery for Institution business while under the influence of alcohol or drugs is strictly prohibited.
5. The sale of drugs or alcohol on any campus or externship/clinical site is prohibited.

(Note: The term "Campus" also encompasses at any school sanctioned activity/function.)

### **Health Risks Associated with Alcohol**

Alcohol consumption, particularly heavier drinking, is an important risk factor for many health problems and, thus, is a major contributor to the global burden of disease. In fact, alcohol is a necessary underlying cause for more than 30 conditions and a contributing factor to many more. The most common disease categories that are entirely or partly caused by alcohol consumption include infectious diseases, cancer, diabetes, neuropsychiatric diseases (including alcohol use disorders), cardiovascular disease, liver and pancreas disease, and unintentional and intentional injury. Knowledge of these disease risks has helped in the development of low-risk drinking guidelines. In addition to these disease risks that affect the drinker, alcohol consumption also can affect the health of others and cause social harm both to the drinker and to others, adding to the overall cost associated with alcohol consumption. These findings underscore the need to develop effective prevention efforts to reduce the pain and suffering, and the associated costs, resulting from excessive alcohol use. ([www.niaaa.nih.gov](http://www.niaaa.nih.gov))

Federal regulations require institutions participating in Federal Student Aid programs to provide its students, staff and faculty information pertaining to the prevention of drug and alcohol abuse.

### **Sanctions the Institution Will Impose**

1. Any employee or student found consuming alcohol or drugs on any campus or externship/clinical site shall be subject to disciplinary action.
2. Any employee or student found using; possessing, manufacturing, or distributing illegal drugs or transferring alcohol or drugs during normal working/school hours on any campus or externship/clinical site shall be subject to disciplinary action.
3. Any employee or student who reports to work or class under the influence of alcohol or drugs shall not be permitted to remain on campus or the externship/clinical site and will be escorted home. The employee or student shall also be subject to disciplinary action.
4. Consistent with the Drug-Free Workplace Law, as a condition of employment, all employees are required to abide by the terms of this policy and notify Human Resources of any criminal drug conviction for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Compliance with this policy is considered a condition of employment and/or acceptance for study; therefore, if an employee or student violates this policy, discipline will be assessed accordingly and the individual may be subject to termination or expulsion or referral for prosecution.
6. In all cases, the Institution abides by local, state and federal sanctions regarding unlawful possession of drugs in prohibited areas and/or the use of alcohol by individuals who have not attained the legal drinking age. Any drug identified by the law as illegal is included in this program, as are legal prescription drugs that are used in a manner contrary to a doctor's prescription.

(Note: The term "Campus" includes any school sanctioned activity/function.)

### **Federal Penalties and Sanctions for Illegal Possession of a Controlled Substance**

#### **21 U.S.C. 844(a)**

1st conviction: Up to 1 year imprisonment and fined at least \$1,000 but not more than \$100,000, or both.

After 1 prior drug conviction: At least 15 days in prison, not to exceed 2 years and fined at least \$2,500 but not more than \$250,000, or both.

After 2 or more prior drug convictions: At least 90 days in prison, not to exceed 3 years and fined at least \$5,000 but not more than \$250,000, or both.

Special sentencing provisions for possession of crack cocaine: Mandatory at least 5 years in prison, not to exceed 20 years and fined up to \$250,000, or both, if:

- (a) 1st conviction and the amount of crack possessed exceeds 5 grams.
- (b) 2nd crack conviction and the amount of crack possessed exceeds 3 grams.
- (c) 3rd or subsequent crack conviction and the amount of crack possessed exceeds 1 gram.

**21 U.S.C. 853(a)(2) and 881(a)(7)**

Forfeiture of personal and real property used to possess or to facilitate possession of a controlled substance if that offense is punishable by more than 1 year imprisonment. (See special sentencing provisions re: crack.)

**21 U.S.C. 881(a)(4)**

Forfeiture of vehicles, boats, aircraft or any other conveyance used to transport or conceal a controlled substance.

**21 U.S.C. 844a**

Civil fine of up to \$10,000 (pending adoption of final regulations)

**21 U.S.C. 853a**

Denial of Federal benefits, such as student loans, grants, contracts, and professional and commercial licenses, up to 1 year for first offense, up to 5 years for second and subsequent offenses.

**18 U.S.C. 922(g)**

Ineligible to receive or purchase a firearm

**Miscellaneous**

Revocation of certain Federal licenses and benefits, e.g. pilot licenses, public housing tenancy, etc., are vested within the authorities of individual Federal agencies.

Note: These are only Federal penalties and sanctions. Additional State penalties and sanctions may apply.

**State of Georgia Drug Laws****Schedule I Substances**

The drug or substance has a high potential for abuse; the drug or other substance has no currently accepted medical use in treatment in the United States; and there is a lack of accepted safety for use of the drug or other substance under medical supervision:

- Ecstasy (MDMA)
- Acid (LSD)
- Peyote/Mescaline
- Psychedelic Mushrooms
- GHB (date rape drug)
- Heroin
- Marijuana

(List of schedule 1 Controlled Substances in Code Sections 16-13-25 through 16-13-29)

### **Schedule II Substances**

These drugs are substances that have a high potential for abuse; the drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions; and abuse of the drug or other substance may lead to severe psychological or physical dependence. A few common examples are:

- Cocaine
- Opium
- Morphine
- Hydrocodone
- Oxycodone
- Methadone
- Methamphetamines

(List of Schedule 2 Substances in Code Sections 16-13-25 through 16-13-29)

### **Schedule III Substances**

The drug or other substance has a potential for abuse less than the drugs or other substances in Schedules I and II; the drug or other substance has a currently accepted medical use in treatment in the United States; and abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence. Some common examples in drug possession cases are:

- Ketamine (anabolic steroids)
- Morphine (lower potency)
- Hydrocodone with aspirin or acetaminophen
- (Schedule 3 substances in Code Sections 16-13-25 through 16-13-29)

### **Schedule IV Substances**

The drug or other substance has a low potential for abuse relative to the drugs or other substances in Schedule III; the drug or other substance has a currently accepted medical use in treatment in the United States; and abuse of the drug or other substances may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule III. Some of the most common drug possession charges in this category are:

- Valium
- Rohypnol
- Xanax
- Barbitol

(List of Schedule 4 Substances in Code Sections 16-13-25 through 16-13-29)

### **Schedule V Substances**

The drug or other substance has a low potential for abuse relative to the drugs or other substances in Schedule IV; the drug or other substance has a currently accepted medical use in treatment in the United States; and abuse of the drug or other substances may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule IV. Many of these substances can be obtained over the counter, including:

- Cold medicine with ephedrine
- Cough syrups with Codeine
- Robitussin

- Lyrica

(List of Schedule 5 Substances in Code Sections 16-13-25 through 16-13-29)

### **Georgia Penalties – Possession of a Controlled Substance**

If you are found in possession of Schedule I or II controlled substances, you could face the following penalties:

- First Offense
  - Felony, 2-15 years in prison and variable fines
- Second and subsequent offenses
  - Felony, 5 – 30 years in prison and variable fines

If you are found in possession of Schedule III, IV, or V controlled substances, you could face the following penalties:

- First Offense
  - Felony 1 - 5 years in prison and variable fines
- Second and subsequent offenses
  - Felony, 1 – 10 years in prison and variable fines

### **Possession of Marijuana Laws**

*With any marijuana possession conviction, you face a driver's license suspension.*

**You can be charged with possession of marijuana even if you are not “holding” the drugs.**

If you are “in control” of the marijuana you can be found to be in possession of it. This means that if the drugs are within your reach and a reasonable person would believe you had knowledge of it, you possess it. *This could be in the glove compartment, on your coffee table, or under your seat.*

#### **First Offense Marijuana Possession Laws (less than 1 ounce)**

For *misdemeanor* marijuana possession

- Up to \$1,000 and one year in prison

For *felony* marijuana possession

- 1- 10 years in prison and variable fines

#### **Marijuana Possession Penalties – Second and subsequent offenses (less than 1 ounce)**

If you are caught with less than 1 ounce for a second or subsequent time, it is still considered a misdemeanor. Under Georgia law, you will face up to \$1,000 in fines and up to 1 year in prison.

#### **Felony possession of Marijuana (more than one ounce)**

If you are caught in possession of marijuana and it weighs more than one ounce, you are facing **serious felony charges**.

The potential charge for felony possession of marijuana is 1-10 years in prison and more than \$1,000 in fines.

### **Marijuana Possession & Driver's License Suspensions**

**Regardless of the amount of marijuana you are convicted of possessing, your driver's license will be suspended.**

If you have any previous drug possession convictions that will increase the length of your driver's license suspension.

If you are convicted of possession, your license will be suspended. If this is your first offense, there is a mandatory suspension of 6 months. If this is your second offense, you will lose your license for 1 year. If this is your third or subsequent possession charge, you will lose your driver's license for at least 2 years.

### **Possession of Drug Paraphernalia Laws**

Along with being charged for possessing the controlled substance, you can also be charged for having the paraphernalia used with the drugs. Possession of drug paraphernalia is a misdemeanor and can be punished with up to \$1,000 in fines and up to 1 year in prison.

### **Other Georgia Drug Law Facts**

*Although Flunitrazepan (also known as Rohypnol, the "date rape drug") is a Schedule IV substance, it is a drug taken VERY seriously by the State of Georgia. For that reason, it is sentenced similarly to Schedule I and II offenses.*

Georgia's location has law enforcement aware that it has a great capability to contribute to the Nation's illegal drug trade. For this reason, drug possession is not taken too lightly, particularly for re-offenders!

### **Additional Penalties – Park Zone**

If you are caught in a public park possessing any amount of any controlled substance you can face up to 2 years in prison.

### **Georgia Possession Penalties – First Offense**

If this is a first *misdemeanor* marijuana possession, you can fight for a **conditional discharge**, or diversion.

What this means is the judge will order you to carry out a probation term. If this term is completed successfully, the marijuana charge will be dropped and not reflected on your record.

However, if you violate the probation, your case will be sent to trial and you will potentially face the maximum sentence for a first-time offender.

This probation can include drug counseling, therapy, attendance at meetings, etc.

If you are **not** granted a conditional discharge or your probation is revoked, you will face up to \$1,000 in fines and up to 1 year in prison.

### **Drinking and Driving Laws in Georgia**

The State of Georgia prohibits drivers from operating a motor vehicle with a blood alcohol concentration (BAC) of .08 percent or above. The .08 BAC limit is standard throughout the United States. In addition to this law, there are also separate, lower BAC limits for drivers under the age of 21 (.02%), and commercial drivers (.04%).

## **Open Container Law**

The law defines "open alcoholic beverage container" as any bottle, can, or other receptacle that contains any amount of alcoholic beverage and: (1) is open or has a broken seal; or (2) the contents of which are partially removed.

The law prohibits anyone from consuming any alcoholic beverage, or possessing any open alcoholic beverage container in the passenger area of any motor vehicle which is on the roadway or shoulder of any public highway. Only a person who consumes an alcoholic beverage or possesses an open alcoholic beverage container will be charged with an open container violation; however, a driver who is alone in a motor vehicle shall be deemed to be in possession of any open alcoholic beverage container. Anyone who violates this law is subject to a fine not to exceed \$200.

## **How many drinks does it take to reach the legal limit in Georgia?**

There isn't one correct answer to this question as each individual has certain characteristics that may impact the number of drinks that it would take to become legally impaired. Variables such as weight, body fat percentage and the length of time between drinks can all be factors in the drunk driver equation. There have been studies that have show that for each drink, your BAC could go up as much as .05 percent. The fact is it takes very little alcohol to become legally drunk, and the risks and penalties for drunk driving clearly outweigh any good that could come by driving impaired.

## **The best answer is not to drink and drive.**

The State of Georgia has strict laws for drunk driving, and when you drink and drive in Georgia, you risk your freedom, finances and your future.

First DUI conviction in Georgia you will receive;

- Possible jail sentence of one year
- Fine of \$300 minimum, up to \$1,000
- License suspension of up to one year
- 40 hours of community service, minimum mandatory
- \$210 license reinstatement fee.
- Drivers that are under 21 must delay obtaining their graduated drivers license for 12 months.

Second DUI conviction in Georgia will be;

- Minimum Mandatory 48 hours in jail, possible 90 days to 1 year in jail.
- Fine of \$600 minimum, up to \$1,000.
- License suspension of 3 years
- Minimum 30 days of community service.
- \$210 License reinstatement fee
- A mandatory clinical evaluation and, if indicated, completion of a substance abuse treatment program at your expense.
- Court ordered ignition interlock device attached to your vehicle for second and subsequent offenses.
- Drivers that are under 21 must delay obtaining their graduated drivers license for 12 months.

Third time you are convicted of drunk driving in Georgia you will receive;

- Minimum mandatory 15 days in Jail.
- Fine of \$1,000 minimum, up to \$5,000.

- License revocation for 5 years
- Minimum mandatory 30 days community service.
- Violator's Name, Photo, and Address published in a local newspaper at the violator's expense
- Declared a "Habitual Violator", license plate will be seized and sent to the department of motor vehicle safety.
- Face a mandatory clinical evaluation and, if indicated, complete a substance abuse treatment program at offender's expense.
- Court ordered ignition interlock device attached to your vehicle for second and subsequent offenses.
- Drivers that are under 21 must delay obtaining their graduated drivers license for 12 months.

Georgia House Bill 336, enacted in May of 2008 provides that a 4th driving under the influence violation within 10 years is a felony. A fourth conviction within 10 years of a previous offense will result in a fine not less than \$1,000 and not more than \$5,000. Unless suspended by a judge, you will be imprisoned from 1 to 5 years. If the sentence is suspended by a judge, 90 days of the sentence must still be served. The convicted driver will also need to complete a DUI Alcohol or Drug Use Risk Reduction Program and may be ordered to complete a minimum of 60 days of community service.

### **Can you plead to a lesser offense than DUI in Georgia?**

Georgia law permits a prosecutor to reduce charges from a DUI to reckless driving (wet reckless). However, there are two things to consider: your record will continue to show a disposition for DUI, and you may receive the same penalties as if convicted of a DUI. Reduction to reckless driving more typically occurs in first offenses.

### **Aggressive Driving Law**

A person commits the offense of aggressive driving when he/she operates any motor vehicle with the intent to annoy, harass, molest intimidate, injure, or obstruct another person. Any person convicted of aggressive driving will be guilty of a misdemeanor of a high and aggravated nature and a six point assessment toward the suspension of their driver's license. All DUI convictions require completion of a DUI Drug or Alcohol Risk Reduction Program and a clinical evaluation (plus treatment, if indicated).

### **All Offenses of Georgia Impaired Driving Laws**

The court shall order a person convicted of impaired driving to have an ignition interlock device attached to his/her vehicle for second and subsequent offenses within five (5) years, unless the court exempts the person due to financial hardship. This is required for any vehicle that is operated by the offender for a period of six (6) months.

License plates are also seized anytime a violator is convicted of a second or subsequent DUI within five (5) years.

Minors: In addition to court-imposed penalties, drivers between the ages of 15-21 who are convicted of impaired driving must delay obtaining their graduated license for 12 months. The BAC level for DUI for persons under 21 has been established at .02. while the level for adults is .08.

## **Georgia DUI Defined**

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Georgia's **driving under the influence** (DUI) laws make it illegal for drivers of all ages to operate motor vehicles if they have **blood alcohol content** (BAC) percentages of:

- 0.08% or higher, if they're 21 years old or older operating regular passenger vehicles.
- 0.04% or higher, if they're operating commercial vehicles.
- 0.02% or higher, if they're younger than 21 years old.

**DUI convictions stay on your [driving record](#) for the rest of your life.**

## Understand Your DUI Penalties

Specific DUI penalties depend on your age, license type, and previous DUI convictions, but usually consist of:

- [License suspension or revocation](#).
- Fines and varying court costs.
- Possible jail time.
- DUI school and associated costs.
- Increased car insurance rates.

Some "penalties," such as ignition interlock devices and limited driving permits, are actually privileges granted to the driver (see below).

**The Department of Driver Services has the right to revoke, cancel or suspend your license, levy fines and require a DUI Alcohol or Drug Risk Reduction Program regardless of any criminal charges for certain offenses such as driving under the influence or purchasing alcohol when under age.**

## DUI Penalties: Younger Than 21

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Like most states, **Georgia has zero tolerance** when it comes to drivers younger than 21 years old operating motor vehicles with alcohol in their systems.

### Drivers Age 15 and Younger

#### First DUI Offense

- Driver's license suspension until 17 years old.
- \$210 fee.
- DUI Alcohol or Drug Risk Reduction Program and all associated costs.

#### Second DUI Offense

- License suspension until 18 years old.
- \$310 fee.
- DUI Alcohol or Drug Risk Reduction Program and all associated costs.

#### Third DUI Offense

- License suspension until 18 years old.
- \$410 fee.
- DUI Alcohol or Drug Risk Reduction Program and all associated costs.

### Drivers Age 16 to 20

#### First DUI Offense

- License suspension for 6 months (if your BAC is under 0.08%) or 12 months (if your BAC is 0.08% or higher; this is with or without an administrative license suspension).
- \$210 fee.
- DUI Alcohol or Drug Risk Reduction Program and all associated costs.

NOTE: If you end up with an administrative license suspension, you're able to get a limited driving permit; however, that permit is cancelled if you're found guilty. See below for more information on limited driving permits.

### Second DUI Offense

Regardless of BAC, a second offense within 5 years brings:

- License suspension for 18 months.
- \$310 fee.
- DUI Alcohol or Drug Risk Reduction Program and all associated costs.
- Clinical evaluation and possible treatment.
- Ignition interlock device and permit with court permission (usually after 120 days).

### Third DUI Offense

A third offense within 5 years brings:

- License suspension for 5 years.
- \$410 fee.
- DUI Alcohol or Drug Risk Reduction Program and all associated costs.
- Clinical evaluation and possible treatment.
- Ignition interlocks device and habitual violator probationary license with court permission (usually after 2 years).

## DUI Penalties: 21 and Older

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### **First Offense**

- Suspended license for up to 1 year.
- A \$300 - \$1,000 fine.
- \$210 fee for license reinstatement.
- DUI Alcohol or Drug Risk Reduction Program and all associated costs.
- Mandatory 40 hours of community service.
- Possible imprisonment of up to 1 year.
- Possible limited driving permit. This depends on your BAC, implied consent, and whether you have an administrative suspended license.

### **Second Offense**

A second offense within 5 years brings:

- 18 months - 3 years of license suspension.

- A \$600 - \$1,000 fine.
- \$210 fee for license reinstatement.
- DUI Alcohol or Drug Risk Reduction Program and all associated costs.
- Clinical evaluation and possible treatment.
- At least 30 days of community service.
- Minimum 48 hours in jail; possible sentence of 90 days to 1 year.
- Possible interlock ignition device.
- Possible limited driving permit. This depends on your BAC, implied consent, and whether you have an administrative suspended license.

### Third Offense

On your third DUI offense, the GA DMV gives you Habitual Violator (HV) status and revokes your license for 5 years and confiscates your license plate (see "Reinstating a Habitual Violator's License" below).

You'll also face:

- A \$1,000 - \$5,000 fine.
- \$410 fee for license reinstatement.
- At least 15 days in jail.
- At least 30 days of mandatory community service.
- DUI Alcohol or Drug Risk Reduction Program and all associated costs.
- Clinical evaluation and treatment.
- Possible interlock ignition device and limited driving permit after 2 years.
- Your name, address, and photo published in your local newspaper (you must pay for this).

## Controlled Substance and Marijuana Possession

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If you're convicted of possessing, distributing, or using an illegal controlled substance or marijuana, it also affects your driving privileges—even if it took place outside of your car.

You face:

- License suspension for 180 days (1st offense), 1 year (2nd offense), or 5 years (3rd offense; eligible for a limited driving permit after 2 years).
- DUI Alcohol or Drug Risk Reduction Program and all associated costs.
- \$210 fee for license reinstatement.
- Possible limited driving permit.

NOTE: These are in addition to any other court-imposed penalties, such as jail time.

## Commercial Drivers and DUI

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Generally, **commercial drivers face stiffer penalties than drivers with regular passenger vehicle licenses.**

The Federal Motor Carrier Safety Administration (FMCSA) handles regulations and penalties associated with commercial vehicle drivers throughout the country, including the 0.04% BAC limit. Visit the FMCSA's [Disqualification of Drivers](#) for specific information.

## Other GA DUI Penalties

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### Alcohol or Drug Risk Reduction Program

Regardless of your age or offense number, you'll have to complete a DUI Alcohol or Drug Risk Reduction Program (RRP).

Georgia's RRP's consist of two components:

- The Assessment Component, which consists of 130 questions that determine the impact the driver's alcohol and drug use has on his or her driving.
- The Intervention Component, which is a course that lasts 20 hours, takes place in a group setting, and consists of several sessions.

Your RRP costs \$355. This covers the Assessment Component (\$100), the Intervention Component (\$235), and the workbook (\$20).

**The state doesn't accept online courses.** Your judge most likely will provide you with a list of RRP's you can enroll in, but the state also provides an online [list of certified DUI schools](#).

You must complete the RRP before you can apply for a limited driving permit or license reinstatement. Visit the state's [DUI FAQ section](#) for more information about GA DUI schools, including attendance policies.

### Ignition Interlock Device

Some drivers have to install an ignition interlock device (IID), which requires a breath sample both before you start your vehicle and periodically throughout your drive. Your vehicle will not start if the IID detects alcohol on your breath.

Generally, **you're eligible for an IID if you've had 2 offenses or more within 5 years**. If you're not eligible under state requirements, your judge might make an exception for financial hardship purposes.

Ultimately, your judge will determine whether you can have an IID installed (if so, you must choose from a [list of state-approved IID providers](#)).

## SR 22: Car Insurance and Proof of Financial Responsibility

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Georgia doesn't require DUI offenders to file an SR 22 (a type of proof of financial responsibility) in order to reinstate their driving privileges. However, a DUI conviction can severely affect a driver's auto insurance rates.

Check with your coverage provider about the possibility of increased rates, and then shop around and [compare car insurance rates](#) with other companies to increase your chances of getting the most affordable liability coverage possible.

## Applying for a Limited Driving Permit

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**Every DUI conviction brings a [suspended license](#).** However, some drivers are eligible for limited driving through a limited driving permit. This allows you to travel to and from:

- Your place of employment, or to perform employment-related tasks.
- Scheduled doctor appointments and to fill prescriptions.
- College or other school courses.
- RRP meetings or other drug and alcohol support groups, assessment courses, and treatment programs.

You won't formally apply for a limited driving permit; your judge will determine whether you're eligible based on factors like your age, offense number, and how long your license must be suspended (see your penalties above).

If your judge grants you a limited driving permit, expect to pay:

- **Limited permit:** \$25
- **Limited permit renewal:** \$5
- **Limited permit replacement:** \$20
- **Controlled substance permit:** \$25
- **Habitual Violator probationary license (HVPL):** \$210
- **HVPL replacement:** \$20

Understand that if you violate any of the conditions of your limited permit, the judge will revoke it and tack 6 months onto your original suspension period.

### Reinstating Your GA Driver's License

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Reinstating a regular driver's license after a DUI conviction is fairly straightforward, especially if it's a first offense.

Generally, you need to:

- Wait out the mandatory suspension period for your conviction.
- Present a completion certificate from the DUI Alcohol or Drug Use Risk Reduction Program.
- Pay your license reinstatement fee, which ranges from \$210 to \$410

You may also need to:

- Pay court-imposed fines.
- Complete a jail sentence.
- Undergo a clinical evaluation and treatment program (separate from the Risk Reduction Program).

### Reinstating a Habitual Violator's License

**If you've reached three DUI convictions, you're considered a Habitual Violator (HV), which carries mandatory license revocation.**

You might be eligible for a probationary license after 2 years of the revocation, depending on past situations (you generally can't get a probationary license if you have a history of underage alcohol violations, moving violations, or drug offenses, including marijuana).

You may become eligible for license reinstatement after:

- 5 years have passed since the DMV began calculating your reinstatement eligibility.
- You've submitted a completion certificate from a DMV- or court-ordered driver improvement clinic.
- You've met the requirements for the DUI Alcohol or Drug Use Risk Reduction Program, you've undergone the clinical evaluation and treatment program (if required), and you've met any ignition interlock device requirements.

- You've completed all tests required for reapplication and reinstatement of your license type.
- You've paid the applicable reinstatement fee. If your revocation happened before July 1, 2009, you have a \$210 fee (\$200 fee if paid by mail); if on or after July 1, 2009, you have a \$410 fee (\$400 fee if paid by mail).
- You've surrendered any permits or probationary licenses.

## **Georgia Ga. Code Ann. § 40-6-393**

### **Homicide by Vehicle:**

#### **Homicide by Vehicle in the First Degree:**

If a person operates a vehicle while under the influence of alcohol, drugs, or both, who causes the death of another person and acts without malice aforethought shall be punished by a term of imprisonment not to exceed 15 years. If that person is declared a habitual offender and the person's driver's license has been revoked, and causes the death of another by operating a vehicle while under the influence of alcohol, drugs, or both without malice aforethought shall be punished by a term of imprisonment not less than 5 years and no more than 20 years.

#### **Homicide by Vehicle in the Second Degree:**

If a person operates a vehicle while under the influence of alcohol, drugs, or both, and causes the death of another person without the intention do so shall be punished by a fine not to exceed \$1,000 or a prison term not to exceed 12 months.

### **Reckless Driving**

Reckless driving is defined by Georgia law as driving in reckless disregard of property or other people. That is a fairly vague standard, which means you can be accused of reckless driving based on a loose opinion of the police officer who pulls you over.

The Georgia statutes do not specify how fast or what circumstances demonstrate "reckless regard". This would be up to the discretion of the officer at the time of your arrest or citation, and up to the judge at trial.

While the subjective standard means you can easily be accused of driving recklessly, that also leaves room to argue in court that the officer was mistaken or slightly overzealous with the charge.

### **Georgia Reckless Driving Penalties**

If convicted of reckless driving, a misdemeanor, you are facing a fine of up to \$1,000 and jail time of up to one year.

## **Aggressive Driving**

Aggressive driving is defined as driving with the intent to annoy, harass, intimidate, molest, injure, or obstruct another person. These are similar to *road rage* laws.

### **Georgia Aggressive Driving Penalties**

Aggressive driving is considered a misdemeanor of “high and aggravated nature”, and if convicted, you would be facing fines up to \$5,000 and jail time of up to one year.

### **Fleeing or Attempting to Elude an Officer**

It is against the law to not stop for a police officer after they have given you a visual or audible signal to pull over. They could turn on their lights, sirens, or simply wave you to the side of the road.

If you fail to stop or in any other way, attempt to flee or elude an officer while driving, you could be found guilty of a high and aggravated misdemeanor.

### **Potential Sentences for Fleeing/Attempting to Elude**

If this is your first charge of fleeing or attempting to elude, you are facing fines of \$500 to \$5,000 and jail time no less than 10 days and no more than 12 months.

If this is a second charge, you will face potential fines of \$1,000 to \$5,000 and jail time of at least 30 days and no more than 12 months.

For your third and any subsequent charges of fleeing or attempting to elude an officer, you may end up paying fines from \$2,500 to \$5,000 and jail time of at least 90 days and no more than 1 year.

### **Serious Injury by Vehicle**

Serious Injury by Vehicle is a criminal statute under Georgia driving laws for a case where a person is injured as a result of negligence.

If you, without malice, and while operating a vehicle, injure someone to the extent that they lose use of a portion of their body, lose a member of their body, are seriously disfigured, or have brain damage that causes the loss of use of one of their member, you may be charged with and found guilty of serious injury by vehicle.

### **Potential Sentences – Serious Injury by Vehicle**

Serious injury by vehicle is a felony and if convicted you are facing imprisonment of at least one year and no more than 15 years.

### **What is Vehicular Manslaughter?**

Drivers who unintentionally cause accidents that result in the deaths of passengers, occupants of other cars, or pedestrians may find themselves charged with the crime of vehicular manslaughter (also known as vehicular homicide). Vehicular manslaughter charges are appropriate when the driver was under the influence of drugs or alcohol, or driving recklessly (or merely carelessly), or otherwise driving in an illegal manner—each state specifies the circumstances that will support charging this crime.

The crime of vehicular manslaughter is a relative newcomer to the list of homicide offenses. Before its appearance, these drivers were charged with manslaughter (unintentionally killing someone as a result of criminal negligence or recklessness). But juries were often reluctant to attach the onus of “manslaughter” to a traffic accident. “Vehicular manslaughter” addressed this reluctance by typically providing for lesser penalties than manslaughter itself.

### **Driving that Results in Vehicular Manslaughter Charges**

In order to know whether a vehicular manslaughter charge is appropriate when a highway death results from an accident, you’ll need to know exactly what kind of driving will trigger such a charge in your state. Here are the typical types of driving that state laws provide for.

#### **Negligent driving**

In many states, ordinary negligence, or carelessness, on the part of the driver will support a vehicular manslaughter charge. Ordinary negligence is inattention, or driving that lacks the care and prudence that an ordinarily careful person would exercise under the circumstances. For example, a driver who only briefly takes his eyes off of the road while reaching into his car’s console can still be charged with vehicular manslaughter if his inattention results in a fatal accident.

#### **“Criminal negligence,” “culpable or gross negligence,” “reckless disregard of others’ safety”**

In other states, the type of driving necessary to support a charge of vehicular manslaughter must be more egregious than simple negligence, explained above. Criminal, culpable, or gross negligence; and reckless disregard of others’ safety are common benchmarks. For example, someone who drove at high speed with a high blood alcohol level, failed to heed flashing red lights, traveled on the other side of the road, and failed to apply the brakes is someone whose driving was beyond careless or negligent.

#### **Driving while intoxicated**

Showing that a [driver was intoxicated or under the influence of alcohol](#) or drugs is a common way that prosecutors prove negligent or (depending on the state) reckless behavior. Intoxication can be proved

by eyewitness testimony, self-incriminating statements, and chemical evidence, including blood, breath, or urine tests. In most states, prosecutors must show that the driving itself was careless—in other words, mere proof of legal intoxication is insufficient. Florida, however, is a notable exception—in that state, the prosecutor need only show that the defendant’s driving caused a death, and that the driver was intoxicated. (Fl. Stat. Section 860.01.)

Defendants who have a blood alcohol level of 0.08 or higher are presumed to be driving under the influence (some states set lower thresholds for certain classes of drivers, such as underage drivers and drivers of commercial vehicles). But even if the reading is lower, prosecutors can meet the applicable negligence standard by providing evidence of the driving itself, in conjunction with the ingestion of drugs or alcohol.

Drivers who are under the influence of prescribed drugs may also be charged with vehicular manslaughter when their driving causes a highway death. Consider the driver who takes medicine after being warned by the doctor of its side effects, when the medicine container itself contained clear and obvious warnings not to drive, and when the driver had prior experience with the drug’s effects—this driver has acted negligently at least, and possibly even recklessly.

### **Violating a safety or other statute**

Vehicular manslaughter can also be charged when accidents happen after drivers violate a safety statute. For instance, many states require windshields to be clear. When a death results from the driver’s inability to see through an obscured windshield, a manslaughter charge may follow. Passing vehicles in violation of “no passing” signs, driving beyond the posted speed limit, and performing illegal U-turns are similar examples.

States also single out specific violations of law that are not necessarily safety violations, but involve important interests. When a death results, vehicular manslaughter charges might result. Under Iowa law, for example, a sober driver who causes a death while passing a stopped school bus commits a felony, while deaths caused by other types of reckless driving not involving DUI are punished as misdemeanors. Other states punish as felonies deaths caused by drivers attempting to elude police.

### **Driving while sleepy or falling asleep**

Many traffic accidents happen when drivers have fallen asleep at the wheel, or are extremely drowsy. But when someone dies as a result, the driver won’t necessarily face vehicular manslaughter charges. The question is whether the driver acted negligently (or recklessly, depending on the state’s standard) when getting behind the wheel in such a condition. For instance, a manslaughter charge might be appropriate when someone chooses to stay up all night, works all day, and attempts to drive home after being awake for more than 36 hours. Voluntarily putting oneself in a position so that one cannot stay awake, and then driving, is negligent behavior and possibly even recklessness.

## **What About the Other Driver?**

It's very common for each driver involved in a car accident to share some of the responsibility—perhaps one car was going too fast, but the other car was, too. When blame and damages are sorted out in a civil context—who pays for what—courts often apportion the blame using the theory of “contributory negligence.” In other words, when you're partially responsible, you collect less.

In a criminal context, however, contributory negligence is rarely applied in vehicular manslaughter cases. For example, suppose the victim driver had a blood alcohol level above the legal limit, but the defendant instigated a drag racing maneuver that resulted in the victim's death. Most judges would not allow the jury to hear evidence about the deceased's blood alcohol level.

### ***CAN A NON-DRIVER BE CHARGED WITH VEHICULAR MANSLAUGHTER?***

In almost cases involving a vehicular homicide charge, the defendant is alleged to have been driving. In some instances, however, a prosecutor may charge a defendant with vehicular homicide even though it is undisputed that the defendant was not driving the vehicle involved in the victim's death. A recent vehicular homicide case received national press coverage because the defendant was not the driver of the vehicle but was a pedestrian. Raquel Nelson was charged with second-degree vehicular homicide after her four-year old son A.J. was struck and killed by a vehicle as Nelson, A.J., and Nelson's other children prepared to cross a Georgia highway in 2010.

A law enforcement investigation determined that A.J.'s death was caused by Nelson's act of attempting to cross the highway with A.J. under unsafe conditions. Nelson was charged with second-degree vehicular homicide and a pedestrian crossing violation. The driver of the vehicle that struck A.J. was charged with first-degree vehicular homicide after law enforcement determined that he was driving drunk at the time of the accident.

Georgia classifies second-degree vehicular homicide as a misdemeanor and defines the crime as unintentionally causing the death of another person by violating any one of the state's traffic laws, except for traffic laws pertaining to DUI/DWI, reckless driving, duties of drivers involved in an accident causing death or serious injury, duties of drivers approaching a stopped school bus, and fleeing or attempting to elude a police officer. The violation of the traffic law must be the legal cause of the death.

In Nelson's case, the second-degree vehicular homicide charge was based on her violation of the traffic law that requires a pedestrian outside of a crosswalk to yield to oncoming vehicles unless, under safe conditions, the pedestrian has already entered the roadway. Based on the police investigation, Nelson had violated this traffic provision by entering the roadway with her children under unsafe conditions, and that violation resulted in A.J.'s death. (Ga. Code §§ 40-6-92, 40-6-393)

Nelson plead not guilty to the charges and proceeded to trial. A jury convicted her of both charges. At sentencing, the trial judge sentenced Nelson to 12 months of probation and 40 hours of community service. The judge then exercised her authority to grant a new trial by offering Nelson the choice of serving the sentence or having a new trial. Nelson chose the latter and then filed a motion to block her retrial, arguing that the evidence was legally insufficient to support her conviction at the first trial and

that a retrial would therefore constitute double jeopardy. The trial judge denied Nelson's motion, and Nelson appealed the judge's ruling to Georgia's Court of Appeals.

In denying Nelson's double jeopardy motion, the Court of Appeals noted that the case was the first in the state where a pedestrian or parent of a child pedestrian was charged and convicted of second-degree vehicular homicide based on the victim being struck and killed while crossing a road in an unlawful manner. The Court also noted, however, that Georgia courts had previously ruled that a non-driver may be charged as a party to a traffic violation, pointing to a 2003 Georgia Court of Appeals case where the Court upheld the defendant's conviction for first-degree vehicular homicide based on the defendant having provided a teenage driver with alcohol (the intoxicated driver subsequently crashed the defendant's car into a tree, killing two passengers). After reviewing the evidence from the first trial, the Court of Appeals ruled that the evidence was legally sufficient to support the vehicular homicide conviction even though Nelson was not driving a vehicle, and therefore retrying Nelson did not constitute double jeopardy. (*Nelson v. State*, 731 S.E.2d 770 (Ga. App. 2012))

Facing retrial on the same charges, Nelson agreed to plead no contest to the offense of jaywalking and pay a \$200 fine in return for dismissal of the vehicular homicide and pedestrian crossing charges, thus ending the unusual and controversial prosecution.

As you might imagine, this case was controversial and generated considerable publicity.

## **Penalties and Sentencing**

Many states recognize different degrees of vehicular manslaughter. Statutes typically authorize more severe punishment for vehicular manslaughter convictions involving drunk or drugged drivers, as opposed to convictions based on non-DUI traffic offenses. For example, in Georgia, a driver who causes a death while intoxicated can be charged with first-degree vehicular homicide, a felony carrying up to fifteen years in prison. But a driver who causes a death while committing a moving traffic offense (such as failure to maintain lane position), is guilty of second-degree vehicular homicide, a misdemeanor carrying a maximum of a year in jail.

Penalties for vehicular manslaughter (both [misdemeanors and felonies](#)) differ greatly from state to state. In Alabama, for example, a person convicted of vehicular manslaughter based on DUI faces a maximum of five years in prison, while a person in Minnesota convicted of the same offense faces up to thirty years' incarceration.

## **Possible Defenses to Vehicular Manslaughter**

Common defense strategies in vehicular manslaughter cases include attempts to exclude incriminating evidence, such as test results showing that the defendant was driving with a blood-alcohol level above 0.08. A defense attorney may argue that such evidence should be excluded because it was obtained in violation of the defendant's constitutional rights, or because law enforcement did not comply with procedures established for collecting the evidence.

A defendant may also argue that his intoxication was not the legal cause of the accident resulting in death (not an available defense in Florida, however; see above). Instead, a defendant may argue that an independent intervening event outside of the defendant's control is the cause of the death instead of the defendant's intoxication. For example, in Washington state, a defendant may be acquitted of vehicular homicide where a jury or judge finds that an intervening act caused the death, but the intervening event must be one that is not reasonably foreseeable.

A defendant may also present evidence that his reckless driving or apparent intoxication is due not to alcohol or drugs, but because of a pre-existing medical condition or medical emergency. While evidence of a medical condition can undermine a prosecutor's claim that a defendant was under the influence of intoxicants, a person who chooses to drive despite a *known* medical condition may still be charged with vehicular homicide if that decision to drive is considered negligent or reckless.

Learn about the steps you need to take when [Facing Criminal Charges](#).

### **Intervention:**

New Horizons Medical Institute has several options available for students and staff members who need to address alcohol and other drug abuse issues. Local community health organizations are available to provide counseling for students and staff members. In addition, NHMI has an Employee Assistance Program for all employees with a 24/7 helpline that can be utilized as the employee desires.

### **Drug-Free Workplace Policy:**

In compliance with the drug-free workplace requirements of Public Law 100-690 for recipients of federal contracts and grants, the following policy is in effect for New Horizons Medical Institute and published in the Employee Handbook and NHMI Catalog each year:

1. The unlawful manufacture, distribution, possession or use of a controlled substance is prohibited by NHMI on any property owned, leased, or controlled by NHMI or during any activity conducted, sponsored, authorized by, or on behalf of New Horizons Medical Institute. A controlled substance shall include any substance defined as a controlled substance in Section 102 of the Federal Controlled Substance Act (21 U.S. Code 802).
2. New Horizons Medical Institute has and shall maintain a drug-free awareness program to inform employees concerning the following:
  - a. The dangers of drug abuse in the workplace
  - b. Maintenance of a drug free workplace
  - c. Drug counseling and rehabilitation programs and resources
  - d. Possible penalties of drug-abuse and rehabilitation violations.

### **If you DO choose to drink:**

Misuse of alcohol or drugs inhibits your ability to act responsibly or react quickly. Below are a few safety tips you should keep in mind:

Limit your alcohol intake.

- ❖ Avoid combining alcohol with prescription medicines and club drugs; the combination can be very dangerous.
- ❖ Never leave your drink unattended or accept a pre-poured drink from a stranger.
- ❖ Buzzed or drunk driving is deadly and illegal; leave your vehicle parked and find other transportation. Your life and others' lives depend upon your decision.

#### Alcohol and Drug Prevention Programs

- ❖ Alcoholics Anonymous – <http://www.aa.org>
- ❖ Al-Anon – <http://www.miafg.org/index.html>
- ❖ Narcotics Anonymous – <http://www.na.org>
- ❖ Michigan Department of Community Health – 1-517-373-3740
- ❖ National Suicide Prevention Lifeline – 1-800-SUICIDE (784-2433)
- ❖ National Alliance for the Mentally Ill – 1-800-950-6264
- ❖ Veterans – Locate the closest VAMC or VA Regional Office: 1-877-222-8387

#### **Significant Highlight/Changes during this time period:**

During the past year this institution began planning for a revised, more informative method of disseminating pertinent information related to the federally mandated Drug-Free Schools and Communities Act. This policy was revised in 2013 to include an updated list of penalties. The policy was further enhanced in 2014 to elaborate on Michigan substance abuse and driving laws and various drug and alcohol prevention programs.

#### **Resources for Assistance:**

All students and employees are encouraged to seek early help if they feel they have a problem with alcohol and/or other drugs, and to learn how to assist others with substance abuse problems. With early assistance it is less likely that serious consequences will result from an alcohol or other drug problem. There are resources in the community for assistance. Questions should be directed to the Student Services Coordinators, Campus Presidents or the Human Resources department