



**State:**

North Dakota

**Statute/Law:**

Section 39-08-01: *Under the influence: Incapacity.*

**Per Se Law?:**

No

**Statute/Law Language:**

A person may not drive or be in actual physical control of any vehicle upon a highway or upon public or private areas to which the public has a right of access for vehicular use in this state if any of the following apply:

- a. That person has an alcohol concentration of at least eight one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after the driving or being in actual physical control of a vehicle.
- b. That person is under the influence of intoxicating liquor.
- c. That person is under the influence of any drug or substance or combination of drugs or substances to a degree which renders that person incapable of safely driving.
- d. That person is under the combined influence of alcohol and any other drugs or substances to a degree which renders that person incapable of safely driving.

**Penalties Following Conviction:**

For a first offense, the sentence must include both a fine of at least \$250, and an order for addiction evaluation by an appropriate licensed addiction treatment program;

For a 2nd offense within five years, the sentence must include at least five days' imprisonment or placement in a minimum security facility, of which forty-eight hours must be served consecutively, or thirty days' community service; a fine of at least \$500; and an order for addiction evaluation by an appropriate licensed addiction treatment program;





For a 3rd offense within five years, the sentence must include at least sixty days' imprisonment or placement in a minimum security facility, of which forty-eight hours must be served consecutively; a fine of \$1000; and an order for addiction evaluation by an appropriate licensed addiction treatment program;

For a 4th or subsequent offense within seven years, the sentence must include one hundred eighty days' imprisonment or placement in a minimum security facility; a fine of \$1000; and an order for addiction evaluation by an appropriate licensed treatment program.

**Discretionary Court-Ordered Penalties:**

The court may order a Defendant into an addiction treatment program with time spent there credited as a portion of the defendant's prison sentence. The court may also order the defendant to provide community service as an alternative to jail, and/or to pay restitution to the victim.

**For more information:**

<http://www.legis.nd.gov/cencode/t39c08.pdf?20130228081639>

*Current as of August 2016*

