

C.R.S. § 42-4-1307 DUI / DWAI / ETC SENTENCING (Eff. 7-1-10 HB10-1347)

| Type of Conviction | Mandatory Jail | Range of Possible Jail | Range of Possible Fines | Community Service | Statutory Cite |
|---|---|---|-------------------------|-------------------------------|---|
| DUI or DUI per se or Habitual DUI or DUI Per Se .20 or > BAC: (Up to 2yr Probation: Optional) | 5 days * 10 days * | 5 days – 1 year 10 days- 1year | \$600 - \$1000 | 48–96 hours (48 mandatory) ** | C.R.S. § 42-4-1307(3) (a) (I-III) C.R.S. § 42-4-1307(3) (b) C.R.S. § 42-4-1307(3) (c) |
| DUI, DUI per se, DWAI, or habitual user <u>plus a prior conviction of:</u> DUI; DUI per se; DWAI, or habitual user; vehicular homicide; vehicular assault ; driving with license restrained; Agg Driving w/ Rev. Lic. 2 yr Probation mandatory with 1 yr. jail sentence suspended with: Lev. 2 treatment; May impose addtl proba. >2yr to monitor; May req. start of treatmt while incarcerated; May req. personal appearance while on probation; May require ignition interlock; May req continuous alco monitor May req any other lawful condition | 10 days * consecutive | 10 days – 1 year (If suspended jail sentence imposed for violation of probation condition: no credit applied to term of probation: (7)(c)(I)) Probation may term early: (7)(d) | \$600 – \$1500 | 48–120 hours (48 mandatory)** | C.R.S. § 42-4-1307(5) (a) (I-III) C.R.S. § 42-4-1307(5)(a)(IV); (7) |
| DUI, DUI per se, DWAI, or habitual user <u>plus a prior conviction less than 5 years</u> of: DUI; DUI per se; DWAI, or habitual user; vehicular homicide; vehicular assault; driving with license restrained; Agg Driving w/ Rev. Lic. (Note: Probation is not specified and may not be an option) | 10 days * consecutive | 10 days – 1 year (Work, education, medical release, or Lev. II treatment release only available w/ no credit toward sentence per 1307(5)(c)) | \$600-\$1500 | 48–120 hours (48 mandatory)** | C.R.S. § 42-4-1307(5) (b)(I-III) |
| DUI, DUI per se, DWAI, or habitual user <u>plus two or more prior convictions of:</u> DUI; DUI per se; DWAI, or habitual user; vehicular homicide; vehicular assault ; driving with license restrained; Agg Driving w/ Rev. Lic. 2yr probation mandatory with 1 yr. jail sentence suspended; with same conditions noted in (5)(a)(IV) above | 60 days * consecutive (No earned or good time or trustee status; but pre-sent confinement is) | 60 days – 1 year (Work, education, medical release, or Lev. II treatment release only available w/ no credit toward sentence) | \$600 - \$1500 | 48–120 hours (48 mandatory)** | C.R.S. § 42-4-1307(6)(I-III) C.R.S. § 42-4-1307(6)(a)(IV); (7) |
| DWAI DWAI .20 or > BAC: (Up to 2 yr probation: Optional) | 2 days * 10 days * | 2 days – 180 days 10 days – 1 year (18-1.3-106 alternatives are available) | \$200 – \$500 | 24–48 hours (24 mandatory) ** | C.R.S. § 42-4-1307(4) (a) (I-III) C.R.S. § 42-4-1307(4) (b) C.R.S. § 42-4-1307(4) (c) |

* Mandatory minimum suspended if offender complies with § 42-4-1301.3

(AEdT)

** In addition, a court shall assess an amount, not to exceed \$120, on any person required to do useful public service, pursuant to § 42-4-1307 (14).

Additional Penalties Under § 42-4-1307 (10):

(a) Persons convicted of DUI, DUI per se, DWAI, habitual user, and UDD are subject to the costs imposed by § 24-4.1-119 (1) (c), relating to the crime victim compensation fund. *VCMP*

(b) Persons convicted of DUI, DUI per se, DWAI, and habitual user are subject to an additional penalty surcharge of not less than \$100 and not more than \$500 for programs to address persistent drunk drivers. Minimum fee is mandatory and all or portion may not be suspended unless defendant is indigent. *PDDS*

(c) Persons convicted of DUI, DUI per se, DWAI, habitual user, and UDD are subject to a surcharge of \$20 for traumatic brain injury fund. *BRAI*

(d)(I) Persons convicted of DUI, DUI per se, DWAI and habitual user are subject to additional surcharge of \$1 but no more than \$10 for alco and substance abuse programs. Surcharge is mandatory and all or portion suspended only if found indigent. *RYAS*

§42-4-1307(12): The court may sentence a defendant to attend and pay for one appearance at a victim impact panel approved by the court, for which the fee assessed to the defendant shall not exceed \$25.

§42-4-1307(13): Cost of the presentence/postsentence alcohol and drug evaluation and supervision services shall be imposed against any convicted person under this section.

§42-4-1307(15): If convicted of Agg Dr. with Rev Lic (Per 42-2-206(1)(b)(I)(A or B)): Convict and sentence for each offense separately; Impose all penalties for alcohol related offense; 18-1-408 inapplicable; probation may run concurrent with alcohol offense.