

## DUI Felony Laws

DUI Felony laws refer to laws that make DUI/DWI a felony offense based on the number of prior convictions. This document explores DUI Felony laws pertaining to those who do not kill or injure a person in a drunk driving related conviction.

In April 2008, MADD found that there were **two million** three-time or more and **400,000** five-time or more drunk driving offenders. MADD believes that states should emphasize more effective anti drunk driving countermeasures for first time convicted drunk drivers as to prevent repeat offenses.

The National Highway Traffic Safety Administration (NHTSA) estimates that one-third of first-time convicted drunk drivers repeat their offenses.

DUI Felony laws vary greatly. Many have time constraints as so a DUI offense can only be considered a felony if the previous DUI offense was within five or 10 years.

### DUI Felony Conviction Does Not Equal Incarceration

An offender convicted of a felony DUI offense is not guaranteed incarceration. A *Milwaukee Journal Sentinel* analysis of 161 felony DUI cases between 1999 to 2006 demonstrated this. The maximum sentence for these offenders would be three years incarceration and three years community supervision, yet none of those studied received the maximum sentence.

The *Milwaukee Journal Sentinel* noted:

Just 70 defendants, or 43%, went to prison, receiving an average sentence of 18 months. Seventeen of those had an opportunity to shave substantial time off their sentences by completing boot camp or a treatment program. At least one defendant got out early after petitioning the judge.

More defendants were sentenced to probation than prison. Although 70 of the 71 who got probation terms served between three and 12 months in the Milwaukee County House of Correction, about half were allowed to spend their days in the community on work release. Twenty more defendants received jail sentences, 11 with work-release privileges.

Source: <http://www.jsonline.com/news/wisconsin/31262254.html>

### States with Felony DUI Laws

Forty-six states have felony DUI laws for convictions. The District of Columbia and the following states do not: Maryland, Maine, New Jersey and Pennsylvania.

# How Many DUI Convictions for a Felony?

Second Offense	Third Offense	Fourth Offense	Fifth Offense
<b>Indiana</b> (with previous offense within five years)	<b>Alaska</b> (With previous offense within ten years)	<b>Mississippi</b>	<b>Alabama</b> (with previous offense within five years)
<b>Minnesota</b> (based on circumstances)	<b>Arizona</b>	<b>Missouri</b>	<b>Arkansas</b> (with previous offense within five years)
<b>New York</b> (With previous offense within ten years)	<b>Connecticut</b> (With previous offense within ten years)	<b>Nevada</b>	<b>California</b>
<b>Oklahoma</b> (With previous offense within ten years)	<b>Delaware</b>	<b>North Carolina</b>	<b>Colorado</b>
	<b>Florida</b> (With previous offense within ten years)	<b>Rhode Island</b> (within five years)	<b>Georgia</b> (With previous offense within ten years)
	<b>Idaho</b>	<b>South Dakota</b> (with previous offense within five years)	<b>Hawaii</b>
	<b>Illinois</b>	<b>Texas</b>	<b>Kentucky</b>
	<b>Iowa</b>	<b>Utah</b> (With previous offense within ten years)	<b>Louisiana</b>
	<b>Kansas</b>	<b>Vermont</b>	<b>Montana</b>
	<b>Massachusetts</b>	<b>Virginia</b> (With previous offense within ten years)	<b>Nebraska</b> (with previous offense within twelve years)
	<b>Michigan</b> (With previous offense within ten years)	<b>West Virginia</b>	<b>New Hampshire</b>
			<b>New Mexico</b>
			<b>North Dakota</b> (with previous offense within seven years)
			<b>Ohio</b> (with previous offense within six years)
			<b>Oregon</b>
			<b>South Carolina</b> (With previous offense within ten years)
			<b>Tennessee</b> (With previous offense within ten years)
			<b>Wisconsin</b> (with previous offense within five years)
			<b>Wyoming</b> (with previous offense within five years)

# State Felony DUI Laws

State	Description
Alabama	4th or subsequent offense within five years is a felony
Alaska	3rd of subsequent offense with ten years is a felony
Arizona	3rd of subsequent offense is a class 4 felony
Arkansas	4th or subsequent offense within five years is a felony
California	4th or subsequent offense is a felony if offender is sentenced to prison
Colorado	4 <sup>th</sup> or subsequent offense is a felony
Connecticut	3rd and subsequent offense within ten years are felonies
Delaware	3rd offense is a class G felony
D.C.	None
Florida	3rd or subsequent offense within ten years is a 3rd degree felony
Georgia	4th offense within ten years is a felony
Hawaii	4th of subsequent offense is a class C felony
Idaho	3rd or subsequent offenses are felonies
Illinois	3rd and subsequent offenses are class 4 felonies
Indiana	subsequent conviction within five years, it is a class D felony
Iowa	3rd or subsequent offense is a class D felony
Kansas	3rd or subsequent offense is a non person felony
Kentucky	4th or subsequent offense are class D Felonies
Louisiana	4th offense is a felony
Maine	None
Maryland	None
Massachusetts	3rd or subsequent offenses are felonies
Michigan	3rd of subsequent offenses within ten years are felonies
Minnesota	2nd offense based on circumstances
Mississippi	3rd and subsequent offenses are felonies
Missouri	3rd of subsequent offenses are class D felonies
Montana	4th and subsequent offenses are felonies
Nebraska	4th and subsequent offenses within 12 years are IV felonies
Nevada	3rd of subsequent offenses are category B felonies
New Hampshire	4th or subsequent non-injury DUI offenses are felonies
New Jersey	None
New Mexico	4th offense is a 4th degree felony
New York	2nd offense within ten years is a class E felony
North Carolina	4th of subsequent offense is a class F felony
North Dakota	4th and subsequent offenses in seven years is a class C felony
Ohio	4th offense within six years is a fourth degree felony
Oklahoma	2nd and subsequent offenses within ten years are felonies
Oregon	4th and subsequent offenses are class C felonies
Pennsylvania	None
Rhode Island	3 <sup>rd</sup> offense within five years is a felony
South Carolina	4th and subsequent offenses within ten years are class F felonies
South Dakota	3rd offense within five years is a class 6 felony

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State	Description
Tennessee	4th and subsequent offenses within ten years is a class E felony
Texas	3rd and subsequent offenses are 3rd degree felonies
Utah	3rd and subsequent offenses within ten years are 3rd degree felonies
Vermont	3rd and subsequent offenses are felonies
Virginia	3rd offense within ten years is a class 6 felony
Washington	5th or subsequent DUI related offenses within ten years
West Virginia	3rd and subsequent offenses are felonies
Wisconsin	4th offense within five years is a class H felony
Wyoming	4th or subsequent offenses within five years are felonies

*Revised June 2015*