

VC 23152 Court Sentencing/DMV Action Guidelines

	Probation Granted		No Probation Granted		Court Sentencing for BAC Refusal	With vehicle impound if defendant is registered owner (prior within 5 yrs)	With minor (under age 14) passenger in addition to other penalties	DMV Admin Per Se Age ≥21: BAC ≥ .08% Age <21: BAC ≥ .01% Commercial: BAC ≥ .04%	Court Orders for offenders aged 18 to 21	Judicial Bench Guide Page #
	Court Sentencing	DMV Action	Court Sentencing	DMV Action						
<p>First Offense</p> <p>VC 23578 BAC ≥ .15: shall consider for possible enhanced penalties/granting probation/enhanced probation conditions**</p> <p>Mandatory Sentence</p>	<p>VC 23538</p> <p>Fine: \$390 - \$1000</p> <p>Order first offender program</p> <p>BAC < .20: Program 3 months or longer BAC ≥ .20 or Refusal: Program 9 months or longer</p> <p>Confiscate driver's license VC 23538(b)(3) advisement*</p>	<p>VC 13352</p> <p>Suspend for 6 months from date of conviction</p> <p>13352.4</p> <p>Notify DL restriction eligible after: 30 days of suspension, fees, Proof of DUI Program enrollment, SR22 FR responsibilities</p> <p>VC 13352.1</p> <p>Suspend for 10 months if sentencing per VC 23538(b)</p>	<p>VC 23536</p> <p>Jail: 96 hours (48 hours continuous) to 6 months and</p> <p>Fine: \$390 - \$1000</p> <p>VC 13352.1</p> <p>May order program per VC 23538</p> <p>VC 23536 (d)</p> <p>May disallow issuance of a restricted driver's license</p>	<p>VC 13352</p> <p>Suspend for 6 months from date of conviction</p> <p>13352.4</p> <p>Notify DL restriction eligible after: 30 days of suspension, fees, Proof of DUI Program enrollment, SR22 FR responsibilities</p> <p>VC 13352.1</p> <p>Suspend for 10 months if sentencing per VC 23538(b)</p>	<p>VC 23577</p> <p>Order minimum of 48 hours in jail</p> <p>VC 23538</p> <p>DUI Program 9 months or longer of which 60 hours is education/counseling activity</p>	<p>VC 23594</p> <p>May order impound for not less than 1 day nor more than 30 days</p>	<p>VC 23572</p> <p>Court shall order 48 continuous hours in county jail whether or not probation is granted. No part shall be stayed.</p>	<p>VC 13353.3</p> <p>Driver aged ≥21: Suspension: 4 months Restriction: 5 months</p> <p>VC 23136</p> <p>Driver aged <21: Suspension: 1 year Hardship restrictions possible</p> <p>VC 13353</p> <p>BAC Refusal (any age): Suspend DL 1 year</p>	<p>VC 1332.6</p> <p>Refusal or BAC ≥ .05: Order educational component of DUI Program</p> <p>VC13202.5</p> <p>Suspend or delay DL issuance 1 year if convicted per 23140</p>	<p>Page #'s</p> <p>74-69 to 74-71</p>
<p>Discretionary Sentence</p>	<p>VC 23538</p> <p>Jail: 48 hours to 6 months</p> <p>Disallow issuance of a restricted drivers License</p> <p>VC 23575 BAC ≥ .15: may order IID VC 23249.50 Presentence Investigation Report/ordered education or treatment plan</p>	<p>VC 13352</p> <p>Suspend for 10 months if sentencing per VC 23538(b)</p>	<p>VC 23536 (d)</p> <p>May disallow issuance of a restricted driver's license</p>	<p>VC 13352</p> <p>Suspend for 10 months if sentencing per VC 23538(b)</p>	<p>VC 23577</p> <p>Court shall order additional 96 hours in jail whether or not probation is granted. No part shall be stayed.</p>	<p>VC 23594</p> <p>Shall order impound for not less than 1 day nor more than 30 days</p> <p>Recorded reason for exemption required if applying interest of justice clause</p>	<p>VC 23572</p> <p>Court shall order additional 10 days in jail whether or not probation is granted. No part shall be stayed.</p>	<p>VC 13353.3</p> <p>Suspend DL: 1 year Restriction: N/A</p> <p>VC 23136</p> <p>Restriction: N/A</p> <p>VC 13353</p> <p>BAC Refusal Revoke DL: 2 years</p>	<p>VC 13352.6</p> <p>Refusal or BAC ≥ .05: order 30-hour DUI Program</p> <p>VC 13202.5</p> <p>Suspend or delay DL issuance 1 year if convicted per 23140</p>	<p>Page #'s</p> <p>74-71 to 74-72</p>
<p>Second Offense</p> <p>VC 13352 Alc-only offender may opt for DL restriction after completing 90 days [12 mos if alc & drugs or drugs-only] of suspension term, IID installation, proof of ins., & enrollment in an 18- or 30-month DUI program</p> <p>Mandatory Sentence</p>	<p>VC 23542</p> <p>Jail: 10 days - 1 year and Fine: \$390 - \$1000 or Jail: 96 hours - 1 year and Fine: \$390 - \$1000 (96 hour sentence shall be served in two continuous 48 hour increments)</p> <p>order 18- or 30-month DUI program</p> <p>Confiscate driver's license VC 23542(c) advisement*</p>	<p>VC 13352</p> <p>Suspend for 2 years from date of conviction</p> <p>VC 13352 / 13352.5</p> <p>Notify DL restriction eligible after: 90 days of suspension, Proof of 18/30 mo. DUI Program enrollment, SR22 FR responsibilities, IID options, fees</p>	<p>VC 23540</p> <p>Jail: 90 days - 1 year and</p> <p>Fine: \$390 to \$1000</p> <p>Confiscate driver's license</p> <p>VC 23540(b)</p> <p>May disallow the issuance of a restricted driver's license</p>	<p>VC 13352</p> <p>Suspend for 2 years from date of conviction</p> <p>VC 13352 / 13352.5</p> <p>Notify DL restriction eligible after: 90 days of suspension, Proof of 18/30 mo. DUI Program enrollment, SR22 FR responsibilities, IID options, fees</p>	<p>VC 23577</p> <p>Court shall order additional 96 hours in jail whether or not probation is granted. No part shall be stayed.</p>	<p>VC 23594</p> <p>Shall order impound for not less than 1 day nor more than 30 days</p> <p>Recorded reason for exemption required if applying interest of justice clause</p>	<p>VC 23572</p> <p>Court shall order additional 10 days in jail whether or not probation is granted. No part shall be stayed.</p>	<p>VC 13353.3</p> <p>Suspend DL: 1 year Restriction: N/A</p> <p>VC 23136</p> <p>Restriction: N/A</p> <p>VC 13353</p> <p>BAC Refusal Revoke DL: 2 years</p>	<p>VC 13352.6</p> <p>Refusal or BAC ≥ .05: order 30-hour DUI Program</p> <p>VC 13202.5</p> <p>Suspend or delay DL issuance 1 year if convicted per 23140</p>	<p>Page #'s</p> <p>74-71 to 74-72</p>
<p>Discretionary Sentence</p> <p>VC 23575 may order IID</p>	<p>VC 23542</p> <p>May disallow issuance of a restricted drivers License VC 23249.50 Presentence Investigation Report/ordered education or treatment plan</p>	<p>VC 13352</p> <p>Suspend for 2 years from date of conviction</p>	<p>VC 23540(b)</p> <p>May disallow the issuance of a restricted driver's license</p>	<p>VC 13352</p> <p>Suspend for 2 years from date of conviction</p>	<p>VC 23577</p> <p>Court shall order additional 96 hours in jail whether or not probation is granted. No part shall be stayed.</p>	<p>VC 23594</p> <p>Shall order impound for not less than 1 day nor more than 30 days</p> <p>Recorded reason for exemption required if applying interest of justice clause</p>	<p>VC 23572</p> <p>Court shall order additional 10 days in jail whether or not probation is granted. No part shall be stayed.</p>	<p>VC 13353.3</p> <p>Suspend DL: 1 year Restriction: N/A</p> <p>VC 23136</p> <p>Restriction: N/A</p> <p>VC 13353</p> <p>BAC Refusal Revoke DL: 2 years</p>	<p>VC 13352.6</p> <p>Refusal or BAC ≥ .05: order 30-hour DUI Program</p> <p>VC 13202.5</p> <p>Suspend or delay DL issuance 1 year if convicted per 23140</p>	<p>Page #'s</p> <p>74-71 to 74-72</p>
<p>Third Offense</p> <p>VC 13352 Alc-only offender may opt for DL restriction after completing 6 months [12 mos if alc & drugs or drugs-only] of revocation term, proof of ins., IID installation, & if alc-only, enrolling in [or if alc & drugs or drugs-only, completing 12 mos of] an 18- or 30-month DUI program</p> <p>May petition court for program VC 23575 may order IID</p>	<p>VC 23548</p> <p>Jail: 120 days to 1 year</p> <p>Fine: \$390 to \$1000</p> <p>order 18- or 30-month DUI program</p> <p>Confiscate driver's license VC 23548(d) advisement* VC 23546(b)</p> <p>Advise of Habitual Traffic Offender status per 13350(b)</p>	<p>VC 13352</p> <p>Revoke DL for 3 years</p>	<p>VC 23546</p> <p>Jail: 120 days to 1 year</p> <p>Fine: \$390 to \$1000 and</p> <p>Confiscate driver's license</p> <p>VC 23546(b)</p> <p>Advise of Habitual Traffic Offender status per 13350(b)</p>	<p>VC 13352</p> <p>Revoke DL for 3 years (also per VC 23546)</p>	<p>VC 23577</p> <p>Court shall order additional 10 days in jail whether or not probation is granted. No part shall be stayed.</p>	<p>VC 23594</p> <p>Shall order impound for not less than 1 day nor more than 90 days.</p> <p>Recorded reason for exemption required if applying interest of justice clause</p> <p>VC23596</p> <p>May order vehicle forfeiture</p>	<p>VC 23572</p> <p>Court shall order additional 30 days in jail whether or not probation is granted. No part shall be stayed.</p>	<p>VC 13353.3</p> <p>Suspend DL: 1 year Restriction: N/A</p> <p>VC 13353</p> <p>BAC Refusal Revoke DL: 3 years</p>	<p>VC 13352.6</p> <p>Refusal or BAC ≥ .05: order 30-hour DUI Program</p> <p>VC 13202.5</p> <p>Suspend or delay DL issuance 1 year if convicted per 23140</p>	<p>Page #'s</p> <p>74-73 to 74-74</p>
<p>Fourth Offense</p> <p>VC 13352 Offender may opt for DL restriction after completing 12 months of revocation term, IID installation, proof of ins., & 12 months of either an 18- or 30-month DUI program</p> <p>May petition court for program VC 23575 may order IID</p>	<p>VC 23552</p> <p>Jail: 180 days to 1 year</p> <p>Fine: \$390 to \$1000 and</p> <p>order 18- or 30-month DUI program</p> <p>Confiscate driver's license VC 23552(d) advisement* VC 23550(b)</p> <p>Advise of Habitual Traffic Offender status per 13350(b)</p>	<p>VC 13352</p> <p>Revoke DL for 4 years</p>	<p>VC 23550</p> <p>Jail: 180 days to 1 year or Felony (PC 18): State Prison and Fine: \$390 to \$1000 Confiscate driver's license</p> <p>VC 23550(b)</p> <p>Advise of Habitual Traffic Offender status per 13350(b)</p>	<p>VC 13352</p> <p>Revoke DL for 4 years (also per VC 23546)</p>	<p>VC 23577</p> <p>Court shall order additional 18 days in jail whether or not probation is granted. No part shall be stayed.</p>	<p>VC 23594</p> <p>Shall order impound for not less than 1 day nor more than 90 days</p> <p>Recorded reason for exemption required if applying interest of justice clause</p> <p>VC23596</p> <p>May order vehicle forfeiture</p>	<p>VC 23572</p> <p>If punished as a misdemeanor, court shall order additional 90 days in jail whether or not probation is granted. No part shall be stayed.</p>	<p>VC 13353.3</p> <p>Suspend DL: 1 year</p> <p>VC 13353</p> <p>BAC Refusal Revoke DL: 3 years</p>	<p>VC 13352.6</p> <p>Refusal or BAC ≥ .05: order 30-hour DUI Program</p> <p>VC 13202.5</p> <p>Suspend or delay DL issuance 1 year if convicted per 23140</p>	<p>Page #'s</p> <p>74-75 to 74-77</p>
<p>Wet Reckless</p> <p>VC 23103 pursuant to VC 23103.5</p> <p>Use as prior for subsequent DUI sentencing</p>	<p>VC 23103 pursuant to VC 23103.5</p> <p>Jail: 5 days to 90 days or</p> <p>Fine: \$145 to \$1000 or both</p> <p>1st wet: Except upon recorded affirmative finding, order DUI program Education Component-VC 23103.5(e)</p> <p>2nd wet in 10yrs: order minimum of 9 month enhanced 1st offender DUI program-VC 23103.5(f)</p>	<p>No Action</p> <p>May only use as a prior</p>	<p>VC 23103 pursuant to VC 23103.5</p> <p>Jail: 5 days to 90 days or</p> <p>Fine: \$145 to \$1000 or both</p>	<p>No Action</p> <p>May only use as a prior</p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>	<p>DMV action is based on the DUI arrest, not court conviction. See chart above.</p>	<p>VC 13202.5</p> <p>1 year license suspension or delay of licensure</p>	<p>Page #'s</p> <p>74 to 64</p>
<p>**Excessive Blood Alcohol or Refusal to Take Chemical Test: Enhanced Penalties VC 23578</p>						<p>Excessive Speed Enhancement VC 23582</p>				
<p>Department of Motor Vehicle Contact Info: Justice and Government Liaison Branch (JAG) For written response contact JAG at jagcourt@dmv.ca.gov For immediate answers to questions, call: (916) 657-7732</p>						<p>Court shall order additional and consecutive 60 days in jail whether or not probation is granted. Applicable if defendant's speed exceeds the posted speed limit by 30 mph on a freeway, or 20 mph on any other street or highway. Upon 1st VC 23152 conviction, court shall order alcohol and/or drug education and counseling program required even if probation is not granted. Enhancement applicable to all DUI convictions</p>				
<p>Note: An acquittal of 23152(b) requires DMV to vacate the APS suspension.</p> <p>* Court shall advise that the driving privilege shall not be restored until proof of completion of a H&SC 11836 approved DUI program has been received by DMV (VC Sec's 23538(b)(3), 23542(c), 23548(d)).</p>						<p>In addition to any other provision of this code, if a person is convicted of a violation of VC Section 23152 or 23153, the court shall consider a concentration of alcohol in the person's blood of 0.15 percent or more, by weight, or the refusal of the person to take a chemical test, as a special factor that may justify enhancing the penalties in sentencing, in determining whether to grant probation, and if probation is granted, in determining additional or enhanced terms and conditions of probation.</p> <p>Doubled fines if a driver was convicted of a DUI in a highway construction or maintenance area (VC Section 42009) or an area designated as a safety enhancement zone (VC 42010).</p>				